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OCTOBER 1984/VOL. 16, NO. 5

reason

Free Minds and Free Markets

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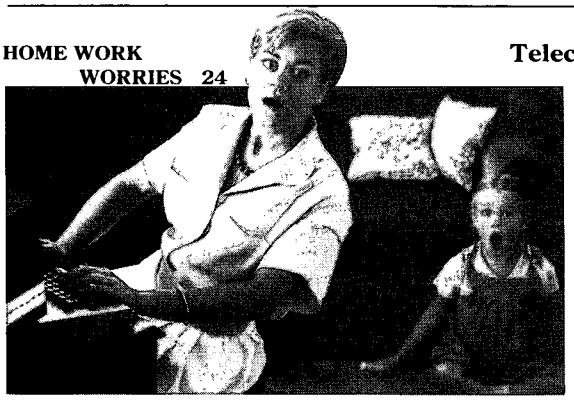

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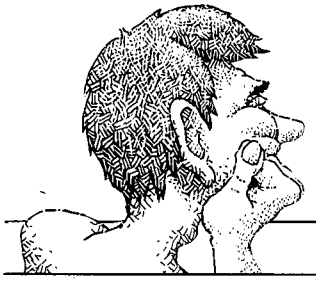

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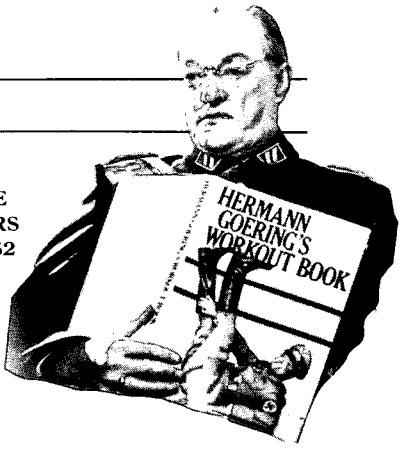

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NOTEs

Sometimes an issue surfaces—in a magazine article or on a newspaper op-ed page, via an interest group or in a politician's speech—and one thinks, "Surely this is a 'nonstarter.' *Surely* no one will take this seriously." And sometimes the newly discovered "issue" does vanish. But all too often one watches, incredulous, as it catches on, popping up with increasing frequency.

That's what we think is happening with computer home work, or "telecommuting"—or, in the view of those who see this as a new issue to be dealt with, the "electronic sweatshop" phenomenon. So we assigned a reporter to check out the home work scene—who does it and why, who's against it and why, and what they're doing about it. "Telecommuting: Will the Plug Be Pulled?" begins on page 24.

More REASON regulars have had articles published elsewhere recently. Contributing editors Tom Hazlett and Alan Reynolds each had op-ed pieces in the *Wall Street Journal* during July, the former on the Democratic convention, the latter on deflation. (And both are slated to appear in our upcoming pre-election issue.) Frequent contributor Bill Havender, coauthor of the article on saccharin on page 33 of this issue, had an excellent review of Edith Efron's new book, *The Apocalyptics*, in the July 23 issue of *Fortune*. (REASON's May cover story, "Behind the Cancer Terror," was an excerpt from this important volume.) And frequent book reviewer Jane Orient, M.D., took second place in the *Private Practice* essay contest on the subject "Who should control medicine?" Her essay, "Close the Door on Government Controls," was printed in the magazine's June issue.

—M. Z.

REASON magazine and the Reason Foundation that publishes it have a new controller, Katherine E. McKenzie. She has varied experience in financial management, having worked with a health club, a large food processing company, and a real estate investment firm. She also has a personal interest in voluntary, grass-roots groups working for social change. Katherine picks up the reins from John Northrup, who accepted an offer to return to his alma mater, Northeastern University in Boston, as director of the Graduate School of Professional Accounting.

"Shoebox for Liberty" provides a way to support the families of the freedom fighters of Nicaragua, profiled in Jack Wheeler's June-July cover story. The project has been organized by Louisiana state legislator Louis (Woody) Jenkins. Based on several of his refugee-aid trips to Honduras, where most of the Contras' families live as refugees, Woody realized the need for everyday items that we take for granted—things like soap, Bandaids, and toothbrushes. The idea is for American families to prepare individual shoeboxes in accordance with a list provided by the nonprofit Caribbean Commission, which will distribute the shoeboxes to refugee families. A copy of the shoebox list can be obtained from Louis (Woody) Jenkins, Caribbean Commission, 732 North Blvd., Baton Rouge, LA 70802.

See how they privatize: As reports in REASON indicate, privatization of government services is not just an American phenomenon. Indeed, there's a boom in privatizing municipal services in England, Denmark, and West Germany. To gain a first-hand perspective on these developments, the Washington-based Council for International Urban Liaison, together with London's Adam Smith Institute and the Reason Foundation, is arranging a Privatization Study Tour of northern Europe. Planned for late spring of 1985, the week-long tour will include London, Copenhagen, and Hamburg. Visits will be made to facilities of leading suppliers of public services (for example, Denmark's Falck International, Europe's largest private fire and emergency rescue firm), and both European and American experts on privatization will take part.

The total cost of the trip, including airfare, is estimated at $2,000 per person. Places are very limited, and reservations will be taken on a first-come, first-served basis. So if you're interested in going, let us know now. Write Privatization Tour, Reason Foundation, 1018 Garden Street, Santa Barbara, CA 93101. (By the way, if you have a professional interest in the subject, the cost of the trip will be tax-deductible.)

—R. W. P.

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EDITORIAL

Robert W. Poole, Jr.

Con(rail) Games

Remember the story of King Midas, who turned everything he touched into gold? Congress is sort of like that, except that everything *it* touches turns into disaster. The latest case in point is the attempt to denationalize Conrail.

Government, needless to say, has no reason to be in the railroad business. After dumping $7.6 billion of our money into Consolidated Rail Corporation since its creation in 1976, the government has finally decided to sell the company, now that it's managed several years of profits. Yet already, critics in the media and in Congress are jumping all over the Transportation Department. And if some of them have their way, you and I—whose money has been poured into this venture—won't get even a penny back.

That incredible outcome would occur if the most bizarre plan, proposed by one Rep. James Florio (D-N.J.), were enacted. Florio wants the proceeds from the sale of Conrail to go, not to the taxpayers (presumably in the form of a reduction in the federal deficit), but to rebuild the "railroad infrastructure" of the Northeast—in other words, the numerous branch lines abandoned because they had virtually no traffic and were hence unprofitable.

To fully appreciate the inanity of this proposal, we have to go back about a decade. Conrail was created in the first place because its predecessor railroads—primarily the ill-conceived Penn Central (an ungainly merger of the Pennsylvania and New York Central)—had gone bankrupt, leaving much of the Northeast with the prospect of interrupted rail service.

Why did Penn Central go bust? For the same reasons that *all* railroads had been declining since World War II—the heavy hand of government regulation. Nearly a century of government intervention on the side of labor unions produced bloated work forces and preserved steam-era work rules. In addition, rigid restrictions on service curtailments added to soaring costs. At the same time, price controls (rate regulation) made it difficult to cover these inflated costs. And to the extent that prices *were* raised, the railroads lost ever more traffic to truck lines. (And the truck lines prospered because government subsidized their rights of way and restricted entry by competitors.) As a result, the railroads' return on equity had sunk to below one percent by the mid-1970s. Penn Central was simply the most poorly managed of the major railroads, so it was the first to go under.

But something amazing has happened to railroading in the past eight years. Without fully realizing what it was doing, Congress enacted two complex, arcane bills—the 4R Act of 1976 and the Staggers Act of 1980—that restored considerable freedom to the rails: freedom to set prices, to lay off redundant workers, even to abandon money-losing branch lines. And in eight years the whole industry has turned around. From 1976 to 1983 the workforce on the 31 Class I railroads was cut by one-third; the amount of trackage, by 16 percent. And the average return on equity soared to over five percent. All of a sudden, railroads have become a growth industry.

Deregulation, along with a competent management team, has transformed Conrail, as well. As an extreme case of the railroads' problems, the changes at Conrail have been equally exaggerated. Since its creation in 1976, Conrail has shed nearly *60 percent* of its original 100,000-member work force. Those who remain are working for 12 percent lower pay than employees of other Class I railroads (though they now own 15 percent of Conrail's stock in exchange). And the railroad has abandoned *24 percent* of its former trackage.

Which brings us back to Rep. Florio's little gem. What the gentleman from New Jersey wants to do, you see, is to pump the billion or so dollars received from the sale of Conrail into those very same abandoned branch lines—lines so unneeded that they were a major cause of the near-demise of the railroads in the first place!

One *can* question whether taxpayers are getting the best deal from the proposed sale. Some analysts on Wall Street and within the Transportation Department figure that if the government made a public stock offering, it would net more than the $1.2 billion being bid by the current six (out of 14) finalist bidders. But a $1.2 billion return on the taxpayers $7.6 billion "investment" in Conrail is far better than nothing!

Ironically, the best lessons in how to denationalize are available from what used to be called "socialist Britain." There, Margaret Thatcher's government goes steadily on its way, hacking away at the 10 percent of Britain's gross national product accounted for by state enterprises when she took office in 1979. Between 1981 and 1983 her government sold off British Aerospace (aircraft and missiles), Cable & Wireless (telecommunications services), Amersham International (radioactive materials), Britoil (North Sea oil and gas producer), Associated British Ports, and National Freight Co. (trucking). Proceeds from the sale of stock of these firms totaled $1.5 billion and was applied to reduce the national debt.

During Thatcher's second term, the government has sold off Enterprise Oil and Jaguar. Being prepared for sale are British Airways, British Airports Authority, Rolls Royce (the aircraft-engine company), and British Telecom, plus portions of British Gas, British Steel, British Shipbuilders, and a number of smaller entities. While there has been lively debate about how *best* to divest large enterprises, there has been little serious debate over the desirability of getting government out of commercial enterprises. And the idea that the proceeds of these sales should be used for anything other than to relieve the burden on the hard-pressed taxpayers appears to be unthinkable. Bad enough that billions have been poured down these ratholes for so long. Let's not add insult to injury by frittering away the proceeds on do-gooding!

Denationalization—like nationalization—is still an unfamiliar experience for Americans. So our advice to Congress, as it figures out how to unload Conrail, is to take a lesson from the pros. Don't think up new boondoggles, especially ones that repeat the very same mistakes that created the problem in the first place. Sell the damned thing and be done with it!

Robert W. Poole, Jr.

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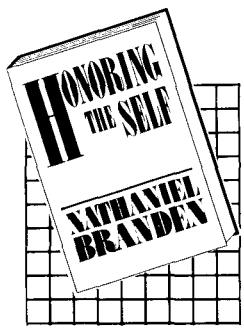
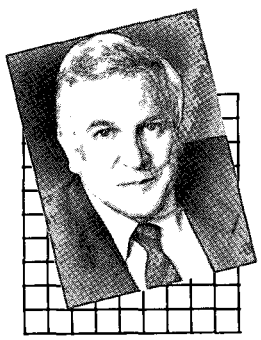
Nathaniel Branden, Ph.D. is the author of Honoring the Self, The Psychology of Self-Esteem, Breaking Free, The Disowned Self, The Psychology of Romantic Love, and (with E. Devers Branden) The Romantic Love Question & Answer Book. He is a pioneer in his studies of self-esteem, personal transformation, and man/woman relationships.

He has guest-lectured and conducted therapy *demonstrations and* training workshops in over fifty colleges and *universities throughout* the United States, Canada and Europe. He has taught at UCLA Extension and USC.

He is the Executive Director of the Biocentric Institute, which offers training workshops to mental health professionals in his "Biocentric approach." He is in private practice in Los Angeles and lives in Lake Arrowhead, California.





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Letters

More Kidney Nightmares

Michael Kronman's article on the government's kidney-dialysis program ("Dialyzing for Dollars," Aug.) hit me particularly hard. My wife has been a dialysis patient for three years now. Because of a previous episode of cancer, she cannot have immunosuppressant drugs and therefore cannot have a kidney transplant. So she will continue to be a dialysis patient for the rest of her life.

I'm writing only to add a little to Kronman's tale of horror. My wife has been able to use another alternative to hemodialysis, which was not mentioned in the article—continuous ambulatory peritoneal dialysis (CAPD). The CAPD patient's peritoneum is the dialysis membrane. The peritoneal cavity is filled with a weak solution of sugar and salt in sterile water. By osmosis, the excess water and waste products from the blood are transported into the fluid in the peritoneum. This fluid is drained and filled several times a day through a catheter permanently installed in the abdominal wall.

From the patient's standpoint, CAPD is definitely superior to hemodialysis. Because the dialysis is continuous, there is no buildup of wastes in the blood. The process itself is not life-threatening, as is hemodialysis. Aside from the tedium of going through four or five "exchanges" a day, the patient leads a normal life. The cost is about three quarters of that for hemodialysis.

Since it's cheaper and better, why aren't more people on CAPD? At least here, it's because the medical industry has a vested interest in not putting them on it. My wife visits her doctor only once a month, and she goes to the hospital only once a month for a "line change" (replacement of the external part of the catheter). Those visits are expensive, but even so they're nothing like what the doctors and hospitals collect for hemodialysis. In addition, as one of the CAPD technicians remarked to my wife, the hospital has been expanding its hemodialysis unit, and "they have all those expensive machines to pay for."

There have been some technological advances in CAPD even in the three years since my wife started on it. However, these have been largely in simplification of the procedure. The companies providing the CAPD equipment do see themselves as being in competition with hemodialysis and want to be competitive. But under the circumstances, they really don't have much incentive to cut costs. They're already cheaper than hemodialysis, and increasing their market share depends upon getting more doctors to recommend it to their patients, rather than cutting costs further.

Joseph P. Martino
Sidney, OH

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Dialysis Defense

Michael Kronman makes a proper point about the lack of incentive to reduce costs in the Medicare-supported dialysis program. Is any government-funded program ever otherwise? He does a great disservice, however, to many if not most dialysis patients when his objectivity is lost in describing the dialysis experience. Anyone unfamiliar with hemodialysis would assume from the article that the experience is a living hell, and if I were a prospective patient I would be terrified after reading Kronman's comments. My own and many others' experiences are in complete contradiction.

As a hemodialysis patient of five years, I have never had anything worse than occasional cramps. Most treatments are completely uneventful, and the four hours required can be used for productive reading or other activities. The positive effect of my first hemodialysis treatment was so pronounced that I actually looked forward to the next one. My good fortune is probably better than the norm, but I observe many other patients who are leading happy, active, and productive lives.

No doubt many patients have not had the alternatives of transplantation, home dialysis, and CAPD explained to them. Here again I take issue with Kronman's broad-brush approach. Nephrologists of my acquaintance do indeed discuss these alternatives. But what's good for the goose isn't necessarily good for the gander. For many patients, myself included, hemodialysis is the treatment of choice.

Jeremy W. Smith
Shrewsbury, MA

Article Prescription

Michael Kronman is to be commended for his thoughtful and well-researched article. Having lived the existence of both dialysis maintenance for his failed kidneys and successful transplantation for replacement of these diseased organs, Kronman is highly qualified to describe his subjective experience. What sets this piece apart is his ability to combine lucid journalism, economic analysis, historical examination, political insight, and a large dose of common sense to make some penetrating conclusions.

As a practicing thoracic and cardiovascular surgeon, I hope that this important contribution will receive the widest possible circulation. Health-care planners for industry, legislators dealing with health matters, medical profession leaders, deans of medical schools, and hospital administrators would be an especially useful audience.

Frederick N. Firestone, M.D.
Newport Beach, CA

Water Quote Cleanup

Your Trends item "A Boondoggle That's All Wet" (June-July) misrepresents my views. If you had included the entire quote from the *Business Week* article you relied on, it would have indicated that I believe restrictions on the use of water delivered by federal water projects contribute to inefficient water use. Furthermore, if you had been privy to the roughly half hour of discussion I had with the author of the *Business Week* article, it would have been clear that my views are strongly supportive of the view that government restrictions on water transfers are a major cause of the nation's growing water problems.

Kenneth D. Frederick
Resources for the Future
Washington, DC

The editors reply: We said: "Kenneth D. Frederick of Resources for the Future voices the objections of many when he says that 'people shouldn't be able to make a profit on what the government has given them.' " *Business Week* said:

" 'Perhaps people shouldn't be able to make a profit on what the government has given them,' concedes Kenneth D. Frederick of Resources for the Future. 'But unless we allow it, we lock water into low-value uses, and the nation is worse off.' " We agree that quoting the latter sentence would have given a more accurate sense of Mr. Frederick's views, even though his statement about people profiting is indeed an objection voiced by many people.

More Ups and Downs

John Doherty's article "The Ups and Downs of the Flying Car" (Aug.) is a worthy successor to his "Collision Course" (June 1982). A suggestion for a follow-on: Doherty could record the story of Jim Bede and his BD-5, which bit the dust primarily because of bureaucratic certification problems. The BD-5 was one fine airplane in which many of us invested, but the nearly $5 million Bede raised was insufficient to clear the regulatory hurdles.

William Vandersteel
North Bergen, NJ

Free-Market Foul

Bill Steigerwald's "A Happy Ending for Kids' TV?" (Life & Liberty, June-July) repeatedly asserts that Federal Communications Commission Chairman Mark Fowler believes in a free market. Fowler, an unelected bureaucrat acting by government fiat, has sought to give existing broadcasters exclusive control of the nation's airwaves. I always thought a free market was open to all competitors.

Mark Pierce
Sun Valley, CA

Regulatory Morality

In "Behind the Cancer Terror" (May 1984), Edith Efron rightly notes the importance of the moral dimension in the cancer debate. It is interesting to take a look at the (implicit) moral views of the "threshold" supporters—the losers in the controversy—which Efron does not explicitly identify in the article.

On the one hand the "no-safe threshold" group has only to prove that any arbitrary dosage of a substance causes cancer in laboratory animals; and they proceed to banning of the substance. Their moral basis is a kind of militant desire to protect human life, no matter how questionable scientifically. On the other hand the "threshold" people look on in despair and make irrelevant arguments while countless substances are banned from the marketplace.

It occurs to me that since the actual science of the matter is inconclusive, could not one make a *moral* argument that substances and products which are *demonstrably beneficial to man* should not be arbitrarily banned from use? And is this not the implicit position of the "safe threshold" side of the controversy?

Since the factual basis of the argument is inconclusive so must be the moral. In this case the moralities of protection and of progress are both valid concerns. (To my mind, the latter is better, since it is appropriate to the positiveness required for human achievement.)

When the morality of both sides is identified, one sees a familiar theme that goes beyond morality or any specific scientific principles. One sees the triumph of anti-reason, anti-science, anti-progress. One sees the kind of militant mind so succinctly outlined (and advocated) by the philosopher Herbert Marcuse. It didn't end with the sixties.

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brickbats

From the city that gave us Frank Sinatra and *On the Waterfront*, we now have real fireworks at city hall. Hoboken, New Jersey, Mayor Steve Cappiello thinks that Councilman Thomas Vezzetti is a disgracefully sloppy dresser. So during a council meeting, the mayor tossed a lighted firecracker in Vezzetti's direction. "I wasn't trying to hurt him," Cappiello says. "I threw it so he would become more alert and realize that the seam on his orange pants was torn." Vezzetti was outraged. "What the firecracker incident shows about the mayor is that he is an idiot," the councilman says. "Can you imagine a grown man throwing firecrackers? And where did he get them anyway? Firecrackers are illegal in Hoboken."

Doreen Schifano was lucky to get off with a $35 fine. Her next violation could result in a six-month jail term. What nefarious crime did the young woman commit? She violated Borough Ordinance 403 which prohibits office and retail work on Sundays. She received permission from her boss at IBM in Paramus, New Jersey, to use the office on a Sunday to work on her application for a master's degree program. Judge Martin Burger ruled that Sunday use of business facilities is prohibited regardless of purpose. But Burger doesn't believe the ordinance should apply to his legal brethren. He also ruled that an attorney can work in his own office on Sundays as long as he doesn't consult with clients. Paramus justice is blind. Also deaf and dumb.

Roger Pilcher may chain himself to his barber pole unless the village idiots who run West Dundee, Illinois, leave him alone. Pilcher's spinning barber pole—the historic symbol for a shave and haircut—violates a local ordinance against moving signs. Pilcher had to stop his twisting pole at his tonsorial parlor last winter. "I'm against big, gaudy flashing signs myself," he says. "But they keep talking about opening up some kind of Pandora's box as though there's going to be an epidemic of barbers flooding into West Dundee carrying spinning poles." Where else would they go?

Bureaucrats are having fits because genetic engineering companies don't fit under old regulatory definitions, and no one knows who's responsible for telling them how to run their businesses. Genentech, Inc., of San Francisco says the Agriculture Department and the Food and Drug Administration argued for more than a year over which agency should regulate a new company product designed to kill viruses that infect farm animals. Government isn't the only villain in this story. A Genentech lawyer says that large companies favor additional regulation as a way to drive up costs for small companies, hoping that it will "cause the small, more specialized firms to fail before any of their products can traverse the regulatory morass."

"JULY 4TH... BORN UNDER THE SIGN OF THE CRAB... YOU ARE INDUSTRIOUS, GENEROUS, AND UNABLE TO BALANCE A BUDGET... ATTRACTED TO TALL, DARK EX-ACTORS WHO WANT TO TAKE YOU TO FOREIGN JUNGLES... YOU WILL MEET A PERSISTENT MINNESOTAN WHO WILL PROMISE YOU MANY THINGS, BUT NOTHING WILL COME OF IT..."

If you think American justice is loony, take a look at what's going on in England. A 31-year-old man who's serving a life sentence for rape has been awarded $60,000 in damages because of an auto accident the judge said had turned him into a rapist. Sir Harry Woolf ruled in the High Court of Justice that had it not been for a 1978 car crash that damaged the frontal lobes of Christopher Meah's brain, "he would have probably resisted his inclinations to embark upon sexual attacks." The judge said that Meah, who was no angel when it came to sex and violence before the collision, "was the worst possible person to sustain injuries of this kind." So who are the best possible persons to sustain brain damage? English judges, perhaps?

Gerry Clevenger has Monroe, New Jersey, officials nipping at her heels because of her roadside hot-dog stand. Officials want to close the stand because Clevenger is "an attractive girl who is distracting motorists and could cause traffic accidents," says a municipal drone. So far, there haven't been any accidents, but the town fathers aren't taking any chances. If Clevenger were ugly as sin, there'd be no problem, they say. Good looks are a curse.

It was the epizootics that finally convinced Sen. Ernest F. Hollings (D-S.C.) to vote against appropriating $31.3 million for the National Endowment for Democracy. Hollings read off a list of agencies numbering in the hundreds that the Endowment would help fund. But the International Office for Epizootics was the final straw. "I am having the staff look that thing up," he says. "It is something about animals. I could probably put in an amendment to get rid of epizootics in Washington. I would run for re-election on that one down home in South Carolina. You know what they would think epizootics was? Them fuzzy liberals up there." Despite Hollings's eloquence, epizootics are now being funded.

—MARK EDWARD CRANE

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TRENDS

IMPORTS: HIT AND MYTH

If Guinness kept track of the scapegoat most frequently used by American politicians, foreign trade would be a very strong contender. In speech after speech, politicians from across the political spectrum repeatedly blame the problems of declining employment—and declining industry—on "unfair" foreign competition. The advantage of import-bashing is that foreigners don't vote here, so politicians risk nothing by saying nasty things about German and Japanese products. The disadvantage is that some central premises of the bashers' rhetoric are largely false, as a recent study from the Brookings Institution indicates.

After looking at employment changes in 52 manufacturing industries from 1973 to 1980, Brookings analyst Robert Z. Lawrence found 25 in which employment declined. But how important were foreign imports in causing the employment decline? Not very. According to Lawrence, a *decline in domestic demand* was a far more significant factor than imports. Indeed, Lawrence concluded that there were only 7 industries in which imports were a factor *at all* in the loss of jobs, and in 5 of those 7, declining domestic demand was a more important factor than imports in causing job loss. So when push came to shove, the figures showed that out of 52 industries studied, in only 2—footwear and miscellaneous manufacturing—could a loss of jobs be traced primarily to imports.

What of the auto industry? Detroit is, after all, a hotbed of protectionism these days. Corporate and union bosses there, along with their obedient servants in Washington, declaim against the evil Toyota, but Lawrence tells a different story. Employment in motor-vehicle manufacturing did decline 19.2 percent over the seven-year period Lawrence studied. But a mere 6.4 percentage points of decline could be laid at the feet of foreign trade, while the other 12.8 percentage points were associated with reduced domestic demand.

Import-bashing is not an idle exercise. Its political purpose is rationalizing protectionism. Yet it's very questionable how much good protectionism does even for those it's supposed to benefit. In the 1973-80 period that Lawrence studied, a number of industries with declining employment (including motor-vehicle manufacturing and radio and television manufacturing) were the beneficiaries of artfully labeled protectionist measures—"voluntary" trade restraints, "orderly marketing" agreements, and the like. But as Lawrence told REASON, "These measures were unable to prevent the declines in employment from occurring." And they cost consumers—in the case of small automobiles, for example, an estimated $1,000 per new car in 1983.

When Lee Iacocca of Chrysler, Owen Bieber of the United Auto Workers, and their compatriots travel to Washington to lobby for quotas, domestic-content legislation, and other goodies at consumers' expense, they will probably not be deterred by Lawrence's study. But its conclusions should be recognized for what they are—an important piece of evidence that the causes of declining employment are much closer to home than Iacocca and company might choose to believe.

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LABOR SINGING A DIFFERENT TUNE

Can it really be? *Business Week* columnist John Hoerr reports that three union presidents—Richard Trumka of the United Mine Workers, William Wynn of the United Food & Commercial Workers, and William Bywater of the International Union of Electronic Workers—are proposing *repeal* of the 1935 National Labor Relations Act (NLRA), long regarded as organized labor's Bill of Rights. And Lane Kirkland, president of the AFL-CIO, has been calling for "deregulation" of labor and a return to the "law of the jungle," in preference to today's federal labor legislation.

The union bosses' immediate motivation for the about-face on labor law is the shift of the National Labor Relations Board, which enforces the 1935 law, away from its traditionally pro-union inclinations toward what the bosses view

as a pro-management disposition. A case in point was the NLRB's June ruling that unions may not restrict the right of members to resign from the union during a strike to return to work for the struck employer. The board issued the ruling when a local of the International Association of Machinists and Aerospace Workers tried to fine a member who quit the union to go back to work during a strike against a California auto dealer.

Following the NLRB decision, William Wynn charged that "the ideologues appointed by the Reagan administration have accelerated a process that began years ago to gut the protections for workers contained in the labor laws of this country." The June ruling was only the latest in a long string of NLRB decisions, many of which have reversed long-standing NLRB practice.

Apparently, then, at least some union bosses would prefer to operate according to general legal principles rather than under a special set of laws subject to various interpreters of the day. Obviously for organized labor, it's a case of the shoe now being on the other foot. Government control of worker-employer relations sounded pretty good as long as union sympathizers dominated the NLRB—as they have for most of its history. But the realization that both sides can play the game seems to have concentrated the minds of a growing number of union officials. Deregulation of labor relations may be an idea whose time is coming.

SWITCHING TO FREE-MARKET TV

In June, the Federal Communications Commission chalked up one of its most impressive moves toward full deregulation of broadcasting. The five commissioners voted unanimously to do away with rules governing the amount of news, local programming, and commercials carried by TV stations.

Broadcasters will no longer be required to devote 5 percent of their broadcast time to locally originated programming, 5 percent to news and public-affairs programming, and 10 percent to "nonentertainment" programming. Nor will they be held to a maximum 16 minutes an hour of commercials. Hence, much of television programming is now deregulated.

FCC Chairman Mark Fowler, the guiding force behind broadcast deregulation, observed in a statement that the commission's action "removes an unnecessary layer of government involvement in the television program decisions of the American people." The *Los Angeles Times* quoted Fowler as saying, "What is really at issue here is whether the government trusts the common man to make up his own mind about what to watch or not to watch."

The change is significant for the right to carry on economic activity without government intervention, but few television viewers are expected to be noticing, as a result, any big difference in what they are watching. That's because, as the *New York Times* reported, most television stations had been exceeding the old FCC standards—for commercial, not regulatory, reasons.

"No, '60 Minutes' isn't about to be replaced by reruns of 'The Gong Show.' Nor are viewers likely to face a rash of more ads for frozen chicken patties and antacids," the *New York Times* editorialized. "Indeed, this deregulation will demonstrate how ineffectual regulation has been."

On the whole, the *Times* took a position somewhat sympathetic to free-market principles. "There is no good argument, therefore, for Government's staying in the business of dictating private television schedules," it said. "Programming constrained by popular taste may not please everyone, but regulation isn't likely to improve it." The *Times* even suggested that "free-enterprise logic" implies that broadcasters should pay for using the air waves (although seeing this as a quid pro quo for being "allowed" to make a profit, rather than a natural mechanism for allocating a scarce resource among competing users).

Others were not so sympathetic to the FCC's reforms as the *Times* was. "Totally unjustified," Rep. Timothy Wirth (D-Colo.) called the changes. "Fraudulent, disgraceful and dreadful policy," cried Henry Geller, formerly with the National Telecommunications and Information Administration and now with the Washington Center for Public Policy Research. "Outrageous," fumed Beverly Chain of the United Church of Christ's Office of Communications, which has challenged in court some of the FCC's major radio-deregulation measures and "almost certainly" will challenge the new reforms, as well.

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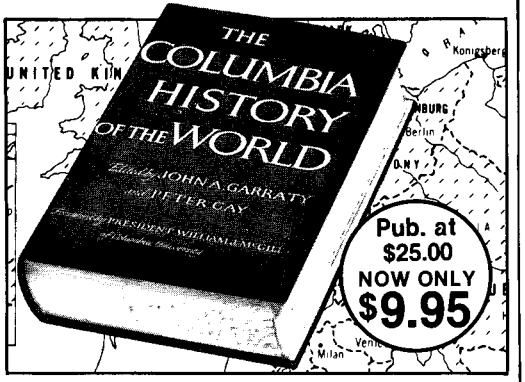

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of Christ and its brethren in the "public interest" lobby are so irate: the sanctity of one of their most lucrative boondoggles is no more. As the *Times* observed, "Eliminating the 'public service' requirement may mean fewer hours of religious broadcasts." Sic transit gloria pork barrel. Meanwhile, earthly viewers can rejoice that a constellation of meddlesome regulations has come to an end, and broadcasting is much closer to a free market.

NASA'S SPACE STATION COMES UNDER FIRE

Although many space enthusiasts have cheered President Reagan's commitment to a permanent, manned space station, there is growing doubt about how such a goal should be achieved—and at what cost.

The National Aeronautics and Space Administration has proposed an *$8-billion* program to build such a station. But Eric Drexler of the Massachusetts Institute of Technology, in an article in last January's *L-5 News*, pointed out that to justify that huge expenditure, NASA is essentially proposing to reinvent the wheel. The agency's Marshall Space Flight Center has claimed that in order to build a station, major technological advances are needed across the board: in propulsion, materials, sensors, solar arrays, mass memories, energy storage, millimeter-wave systems, and even "trash management." Drexler, and a number of other non-NASA space technologists, counter that an effective space station could be built with essentially off-the-shelf hardware, for a fraction of NASA's gargantuan budget.

Lending support to this assertion is a 1975 McDonnell Douglas space-station design study, unearthed by *Commercial Space Report* editor Tom Brosz. That detailed study proposed building *two* space stations, each about three-quarters the size of NASA's proposed new station, for an equivalent cost in today's dollars of $2.5 billion—about *one-third* NASA's proposed budget.

Most recently, Congress's Office of Technology Assessment (OTA) completed a study of NASA's space-station plans and reached many of the same conclusions. NASA's approach is by far the most expensive way of producing a space station, says the OTA, because NASA insists on developing everything from scratch. But as the study notes, private firms are already developing systems that can carry out a number of the space station's functions, either independently or as possible space-station modules—for example, Fairchild's unmanned Leasecraft space platform; the low-cost, unmanned West German SPAS pallet satellite; and the Space Industries pressurized (but not permanently manned) space manufacturing facility. The OTA study suggests that NASA may be stuck in a sort of time warp, still trying to live out the glory days when only government invested money in space and therefore NASA was the be-all and end-all of space development.

MIT's Drexler takes more the view of a public-choice economist, pointing out that it is very much in NASA's interest to come up with an $8-billion gargantua, to keep all its laboratories and contractors employed as expenditures for developing the space shuttle wind down. What's interesting to observe in all of this is the growing recognition, even within the pro-space, high-tech community, that NASA's way is neither the only nor the best way any more.

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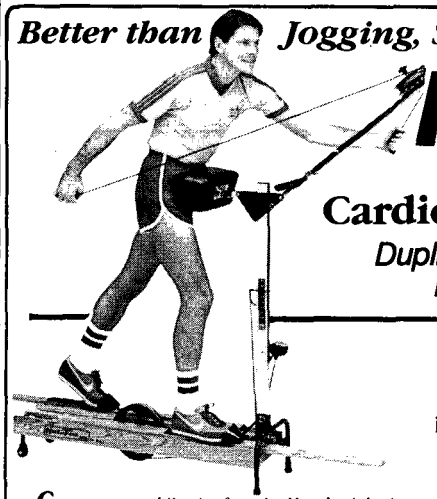

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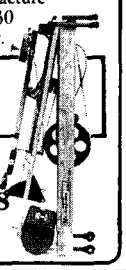

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CLEARING THE RUNWAY FOR PRIVATE AIRPORTS

"A diminished federal role need not jeopardize the adequacy of airport service nationwide." So concludes a recent Congressional Budget Office study, "Financing U.S. Airports in the 1980s." The CBO study examined planned federal aid for airport construction—$6.4 billion through 1990 (in 1982 dollars)—and the consequences of various reductions in such aid, including total elimination.

The study noted three reasons why federal aid could be ended without imperiling the nation's airport system: (1) major commercial airports (71 of which handle about 90 percent of all commercial travel) are regarded as sound investments in the private capital markets; (2) of the 3,203 airports now qualifying for federal construction grants, only 708 are of national, rather than local, significance; and (3) if airports set user charges based on costs rather than by present, bureaucratically determined, criteria—as a withdrawal of aid would force many to do—airport congestion would be largely relieved, thus decreasing the need for airport expansion and construction.

That airports are basically commercial enterprises and can be so operated is evident in a recent study published by the London-based Adam Smith Institute, "Airports for Sale: The Case for Competition." Prepared by economist Sean Barrett of Trinity College in Dublin, the study shows how privatization of Britain's airports could increase competition among airports (thus putting downward pressure on airport charges and hence on fares), increase airport efficiency, widen consumer choices, reduce political interference in airport operations, and lead to better decisions about investment in construction and expansion of airports.

Most of Britain's major airports are owned and operated by the national government, and nearly all others by regional or local governmental units. Prime Minister Margaret Thatcher's Conservative administration, however, has proposed "to transfer as many as possible of Britain's airports to the private sector." But the government's current privatization plan envisions transfer of the airport system (or a good chunk of it) as a single entity to a single private operator. Such a scheme is flawed, Barrett argues, because it "would merely replace a public sector organization by a private sector one." Barrett instead proposes that airports be sold individually (or, in cases where an airport could not fetch a buyer, be contracted out to the lowest bidder), thus allowing for the possibility of multiple operators in the market.

Barrett points out that in Britain, airport charges (as a percentage of an airline's operating costs) are considerably higher than in the United States, where airports are run on a more commercial-like basis. He suggests, that under competitive pressures, these costs would be pushed downward, with the passenger enjoying the passed-on savings.

Barrett buttresses his case for competition with evidence from across the Atlantic. He notes that under US airline deregulation initiated in 1978, new carriers have developed separate operations in competition with main airports. In Chicago, for example, Midway Airlines operates out of the well-located Midway Airport rather than superbusy O'Hare, taking advantage of Midway Airport's lower congestion to offer briefer layovers

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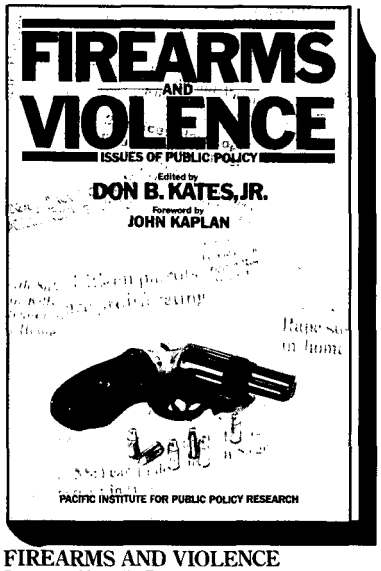

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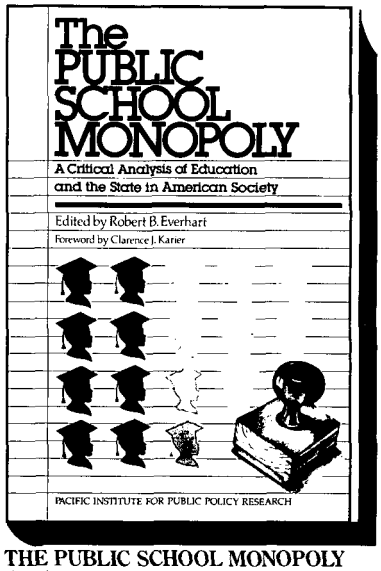

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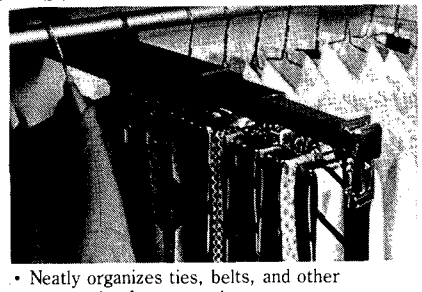

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It is ironic that in Britain, where the national government is considerably more involved in the airport business than is the US government, the focus of the debate over airport operation has already progressed to how best to privatize the nation's airports. Though US airports are increasingly recognized as viable commercial enterprises, full privatization has yet to be seriously considered within the mainstream debate.

GLOBAL TRENDS

INCHING TOWARD PARADISE

CANADA—REASON readers should be seriously cautioned not to conclude from anything that follows that Canada is a land of milk and honey and that instant emigration is desirable. Far from it. But lately, modest signs of pro-freedom progress have emerged. Several of them have been in Alberta, the next province inland from the Pacific coast province of British Columbia.

One of the encouraging developments is selective lifting of a government roadblock to free economic exchange via a duty-free "port." Alberta's provincial cabinet has approved administrative work on a proposed inland, duty-free container port to be set up in either Calgary or Edmonton. Local manufacturers operating in the area, planned to cover 37 to 50 acres, could import materials and use them for finished products, and the goods could be exported without being subject to duties.

On another front, a group of Alberta business owners wants to take over a branch rail line (around since 1910 and about to be abandoned in central Alberta) to set up a private railway connecting several small towns in a rich grain-growing area. The group, incorporated as Alcentrans Holdings, Ltd., would use its own locomotives to haul grain and other freight to connecting points on the government-operated Canadian National Railway and the private Canadian Pacific Railway.

Several major banks have agreed to provide $7 million to buy 1,000 miles of right-of-way, three locomotives, car-control computers, and other equipment. The group is convinced it can make a profit and predicts there will be more such operations in the future.

Meanwhile, Alberta's Conservative Premier Peter Lougheed, who is constantly feuding with the central government about something, warned Ottawa that Canada's state medicare system will collapse unless the federal government does something about cost control. In an attempt to practice that preaching at the provincial level, the Alberta government passed legislation this year allowing hospitals to charge up to $150 a year for individuals or $300 for families for formerly "free" care. Hospitals will be expected to use the revenue, rather than rely on government grants, to cover operating deficits.

Moreover, the provincial government is currently studying a proposal to transfer the province's health insurance plan (available to all provincial residents) to the private sector, which includes handing over the administration of a new 500-bed hospital. One of the reasons for this move is that the feds have just passed the Canada Health Act, which gives them the power to refuse health-care transfer payments to any province that allows doctors to extra-bill patients, or to charge user fees. Alberta, not wanting to be under the thumbscrew of the feds, is thus considering opting out of the federal plan by letting loose a measure of free enterprise.

However, as is usually the case when governments "deregulate," there is a catch: the Hospitals Department would continue to oversee all

(Continued on p. 18)

SALINE SOLUTION

A recent finding in the medical arena illustrates the danger of government regulations freezing in place information that can change as we gain more knowledge. The subject is salt.

For some years the wisdom of such authorities as the American Heart Association has been that people, especially people with high blood pressure (hypertension), should cut back on salt consumption. Self-styled consumer groups like the Center for Science in the Public Interest (CPSI) have in turn used this wisdom to argue for government action to change consumers' seasoning habits. So far they've been unsuccessful, and it looks like consumers are the better for it.

What those who are sour on salt now have to contend with is new data casting doubt on the wisdom that the path to cardiovascular disease is paved with potato chips, soy sauce, and canned anchovies. Scientists recently analyzed data collected on over 10,000 adults, charting the relation between their blood-pressure profiles and 17 nutrients. As the scientists reported in *Science* magazine (June 29), regardless of the definition of hypertension and the demographic variables controlled for, those with hypertension tended to consume *less* sodium than their counterparts with normal blood pressure. In fact, they noted, "Subjects reporting low-sodium diets are at two or three times greater risk of being hypertensive than those who report a high sodium intake."

The authors of the study cautioned that "these findings do not prove causality." But the findings certainly undermine the arguments of the CSPI, which should (but probably won't) be embarrassed. Elizabeth Whelan of the American Council for Science and Health told REASON that the CSPI's logic is that if people ingest more salt than they need, that's inherently bad. Their campaign has even resulted in the Agriculture Department and the Food and Drug Administration issuing publications warning about salt and moving to impose mandatory sodium-content labeling requirements on producers of packaged foods. "It's typical of the logic of the public-health establishment," she noted.

For individuals, the study's findings should mean two things. The first is a healthy skepticism of the government's capacity to offer true consumer protection—if salt regulations were now in place, history tells us it would be mighty difficult to undo them in the face of new data linking higher salt consumption with lower blood pressure. The second is relief that, as our knowledge grows in this area, individuals are still free, at least here, to make their own choices and come to their own conclusions without depending on the ostensible kindness of strangers in Washington.

STATES OFFERING SECURITIES DEREGULATION

Deregulation's breezes are blowing not only in Washington but in some state capitals, as well. One by one, some state governments are relaxing—and, in some cases, ending altogether—their regulation of new stock offerings.

According to a recent article in *Business Week*, the rationale for much state regulation is the so-called merit review. At the federal level, the Securities and Exchange Commission (SEC) bases its regulation on a disclosure process that assumes investors can make their own decisions if they have sufficient information. The architects of state merit review, however, have not taken so optimistic a view of investors' savvy. They have given state officials the authority to pass judgment on whether securities offerings are "fair and equitable" by looking at conflicts of interest, the securities' proposed price, management's experience, and other factors.

This paternalistic idea has a growing number of critics. Norman Fosback, editor of *New Issues*, pointed out to *Business Week* that merit review, if it actually offers any protection of investors, protects buyers of new offerings—but not investors who want to buy the stock "two minutes after an offering has taken place," when the stock price "is likely to be higher."

Moreover, Fosback contends that merit review doesn't do much good even for investors purchasing new offerings. On the contrary, it often deprives them of some very good opportunities. For example, Massachusetts authorities initially forbade the sale of shares of Apple Computer, Inc., when it first went public in 1980, even though it was already an operating company and it had a product, revenues, and earnings. As Edward

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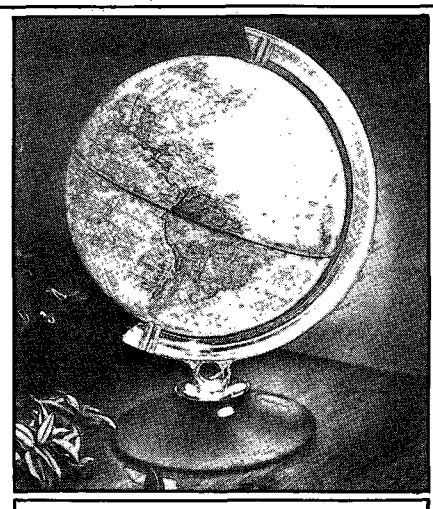

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O'Brien, president of the Securities Industry Association, wrote last year in a letter to Illinois state senators, merit review "unjustifiably increases the cost of raising capital and provides little, if any, increase in investor protection."

But change is in the air. Iowa has enacted new legislation that strikes at "the heart of merit review," the state's superintendent of securities says. Texas may do away with merit review in 1985. Colorado has not had merit review for years. And Wisconsin has ended merit review for securities offered to high-income investors.

But perhaps the most important recent victory against merit review occurred in Illinois, where the state has ended its authority to hold up a securities offering for alleged lack of merit. The Illinois deregulation has raised hopes that Chicago will become more important as a capital market for start-up companies. Already some brokers in Denver, which has been unhampered by merit review, are moving to the greener pastures of Chicago.

The demise of merit review in some states does not mean the end of consumer protection for investors therein.

GLOBAL TRENDS

(Continued from p. 16)

private operators. But at least it's a step in the right direction.

Alberta has traditionally had one of the most generous welfare programs in all of Canada, but it is now making concerted efforts to change some features to convince out-of-province unemployed to stay out of Alberta. A year ago, the provincial government tightened its welfare rules, lowering dole allowances to $436 million for 1984-85 (down 8 percent from the previous year's $472 million). Single unemployed recipients are now required to document two and three job searches a day in order to maintain their benefits, under threat of a "repatriation" policy that would send shirkers back to their province of origin on a one-way bus ticket.

So even if Alberta is (like the rest of Canada) far from being a free-market paradise, it is not without hope. Positive trends can be discerned.

—BRUCE EVOY

LETTING THE MARKET PREVAIL

EUROPE—The recent trend among European nations to cut back government involvement in the economy continues to grow. While Britain still leads in the move to denationalize (see "Liquidating the State," March, page 16), France's socialist government has been making some bold moves to sell off state-owned concerns. For example, in March the government put one-fifth of a state-owned electric company on the block, and there has been much talk of other sell-offs.

Such sales are attractive to France's government because it is hard-pressed to find the capital it needs to fulfill its grand strategy of boosting the country's high-tech industry. Moreover, state companies have been a huge fiscal burden on the French government, having lost about $4.5 billion last year, according to *Business Week*.

Earlier this year, French president François Mitterrand thrust out another prong of the government's austerity program: the lay-off of 75,000 workers at troubled state-owned industries, including heavy money losers like coal and steel. *Business Week* reported that the move, which went against Mitterrand's previous pledges against such lay-offs, is part of a government strategy to control budget deficits and inflation so that an 8 percent tax cut (and a 10 percent cut in government spending) can be effected next year.

The French government also is drawing a hard line on bailing out failing private concerns, turning around its reputation for being an easy mark for companies seeking succor. For example, when the financially troubled Creusot-Loire, an engineering firm, recently requested to be put under receivership, the government stood firm against pressure for a bailout. As one Paris banker commented to the *Wall Street Journal*, "Even the Socialists now realize it's no use throwing good money after bad."

In deficit-wracked Italy, state-owned energy and chemical companies are coming up for auction, and some of the country's nationalized banks may be on the Socialist government's liquidation list as well. Also figuring into the government's attempt to control state spending is the possibility of privatizing parts of the nation's health, telephone, and postal services.

Spain's Socialist government, too, is proceeding with streamlining state-owned industries. Not only does the government intend to sell state businesses to private investors, but it is closing down a number of such enterprises. The government recently shut down a state steel plant near Valencia that had employed 8,000 workers. And the government says that by 1985 it will have released to other endeavors 50,000 workers in various state-owned businesses.

Having sold or planning to sell state-owned assets worth $193 million (the electronics maker Luxor was the first to go), socialist Sweden continues to pursue what the *Wall Street Journal* called an "ideological about-face." In addition to selling off state enterprises, the Swedish government is pushing state-owned operations to emulate private businesses, even urging them to earn profits.

In contrast to its neighbors' history of having bailed out ailing industries through subsidies or nationalization—the painful consequences of which are now emerging—West Germany reports some good dividends from its general policy of resisting subsidization of troubled industries. Because German industries like steelmaking, shipbuilding, and textiles have been left to fend on the market without much government aid, they have had to adapt to an environment that includes competition from foreign government-subsidized firms. And many have adjusted well.

For example, the West German textile industry reacted to fierce competition from Asian producers by shifting to high-automation production of high-quality fabric. A shakeout process over the last 20 years weeded out about a quarter of the nation's textile makers and left the industry with a work force one-third its original size of 650,000. Textile orders are up 7 percent in 1984, and production is expected to increase for the first time since 1981. Similarly, West Germany's shipbuilding weathered a competition storm by moving into the production of specialized vessels, leaving the manufacture of less-sophisticated bulk-cargo carriers to the lower-cost South Korean and Japanese builders.

But it does mean that the responsibility for that protection will be in the hands of the people most competent at, and interested in, the protection—the investors themselves.

MORE STATIC FOR CABLE REGULATION

Cable television is currently knee-deep in a kind of regulatory tug-of-war among four contestants: city and state governments, Congress, the Federal Communications Commission, and the cable operators themselves. And two recent decisions—one by the Supreme Court, the other by the FCC—not only frustrate cities' and states' regulatory designs but also throw a monkey wrench into an effort by Congress to devise "a national cable policy."

The Supreme Court ruling narrowed states' regulatory power over the content of cable programming. Specifically, the court held that the state of Oklahoma, which prohibits advertisements for liquor and wine statewide, could not require the state's cable operators to delete such ads from programs that are transmitted to cable systems from outside the state. In matters regarding cable-TV content, the court held, FCC regulatory authority preempts that of state and local governments.

Shortly thereafter, the FCC declared that cities cannot require cable operators to include nonlocal programs—such as the Entertainment and Sports Programming Network or the Cable News Network—in the package of "basic services" that is subject to local rate regulation. Thus, even where such services have been included in the basic package, cable operators may remove them no matter what the franchise contract requires.

The FCC and Supreme Court decisions have put cable operators in a stronger position vis-à-vis city and state governments, which have enjoyed control over cable systems sometimes to the point of virtual extortion (as documented by Tom Hazlett in "The Viewer Is the Loser," REASON, July 1982). With its position strengthened, the National Cable Television Association has now withdrawn its support for proposed compromise legislation that the cable-industry group had painstakingly drafted with the National League of Cities. The Senate had already passed legislation based on the NCTA-NLC compromise proposal, and the House had appeared on the verge of passing a parallel bill. Now, however, passage of the bill looks unlikely.

As long as the FCC retains its deregulation-minded disposition, the shift of cable regulation to FCC hands is welcome. But those who remain nervous about cable regulation per se—even if by an FCC that presently favors deregulation—cannot be blamed for their anxiety.

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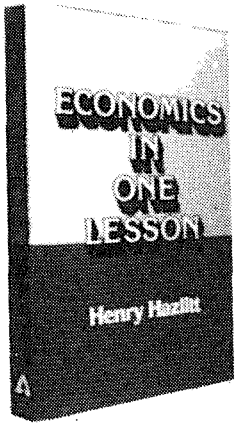

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people warehoused in housing that quickly deteriorates, all at taxpayers' expense. A 50-year-old program intended to stabilize urban neighborhoods has done just the opposite. But economist Stuart Butler argues that there is a way out of this costly mess: selling public-housing units to the tenants.

British-born Butler, the Heritage Foundation's director of domestic policy studies, pointed out in a recent policy study that the idea has an attractive precedent. Since the Thatcher government came to power in Britain five years ago, it has set out to denationalize public housing through a "Right to Buy" program that allows public-housing tenants to purchase their housing units at a discount of as much as 60 percent off of the home's market value.

So far, tenants have bought more than 500,000 of Britain's total public-housing stock of seven million units. And as they switch from being tenants to homeowners, their attitudes toward their homes often change dramatically. "When residents acquire an equity stake in the future of their building, and hence their neighborhood," Butler noted, "they gain incentives to change their behavior from destructive to constructive and to urge their neighbors to do likewise.... Signs of home improvement activity, close attention to maintenance, and resident involvement in neighborhood issues have become evident in communities where tenants are buying."

Butler identifies features of the Right to Buy program that the US government could emulate or learn from. For example, in an effort to ensure that the more stable tenants will participate in the program, British buyers must have been public-housing tenants for at least two years, and their discount off market value is increased one percent for every year (up to 30 years) that they have been tenants.

Moreover, as Butler puts it, "A tenant-buyer cannot buy his unit one day with a 60 percent discount, sell it the next at the full market rate, and walk away with the difference." If the tenant resells his new home or cooperative apartment unit within a year, he must refund the entire discount. That penalty is gradually reduced so that it's only after five years that the homeowner can sell the home without having to refund any of the discount.

The US public-housing program has included various limited homeownership features designed to expand home ownership by low-income people. But

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they have been beset, says Butler, by various problems because of their conditions of sale. He suggests that a successful US program would include (1) a price discount instead of a token down payment, so that buyers have a sufficient stake to undertake maintenance, (2) interest-rate relief depending on a buyers' income and therefore ability to take advantage of the income-tax interest deduction, and (3) provisions for training tenants/owners in home management and maintenance.

Butler notes that local public-housing authorities now have the statutory authority to sell low-income projects to tenants. However, local housing-authority bureaucracies are rarely eager to divest themselves of any of their empire. Rep. Jack Kemp (R-N.Y.) is taking another tack: he's introducing legislation that would allow tenants of public housing for at least five years to purchase their housing units for 30 percent of market value, regardless of the wishes of the local public housing authority.

Butler emphasizes that the point of a program to sell public housing to its low-income tenants "is not to raise income but to promote ownership in poor communities." Such a move, he notes, "would utilize the strengths and ownership dreams of residents themselves to help overcome the debilitating problems of America's inner cities."

MILESTONES

• *Not for banks only.* In 1983, 36 states passed laws loosening restrictions on credit unions. Consequently, many of the unions now offer additional services in competition with banks, such as money-market and checking-type accounts, low-interest credit cards, higher interest on savings accounts, and automated teller service.

• *Some small praise.* Among the nearly 300 (mostly burdensome) changes in the tax code hammered out by the Congress in its $50-billion tax-hike bill are two that are relieving: church employees may opt out of the Social Security system, and the capital-gains holding period—the time it takes for an investment gain to qualify for the lower capital-gains tax rate—is cut from one year to six months.

• *Underground video.* It appears that the latest tool for evading the censors and thought police in some repressive countries is the videocassette recorder. In many Mideast Moslem nations, for example, where morals regulations ban most Western films from movie houses, citizens watch censored flicks on their home VCRs. According to a recent article in *U.S. News & World Report,* the Motion Picture Association of America claims that in some Mideast countries, almost every household has a VCR. And in the Soviet Union, the magazine reported, "a black market for foreign video equipment and tapes has sprung up in Moscow and other cities." Videocassettes ranging from Jane Fonda workout tapes to Russian-dubbed Bruce Lee movies circulate among Soviet subjects much as does the prohibited literature of the underground *samizdat* press. Government authorities are reportedly having much trouble controlling the video underground.

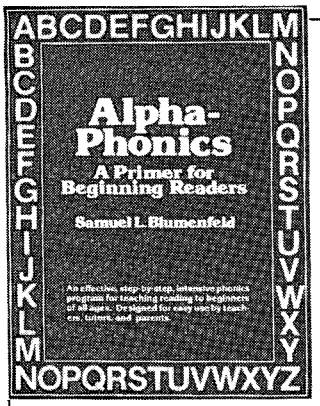
• *Private evictors.* Washington, D.C., has found an unusual function to contract out: the eviction of tenants who are behind on the rent. Private contractors, instead of US marshals, can now carry out evictions, in hopes of relieving a backlog of thousands. Some families lived rent-free for over a year because the marshals were carrying out only 12 percent of court-ordered evictions.

• *Eminent decision.* The California Supreme Court has ruled unanimously that a business owner whose property was condemned to make way for a new freeway is entitled to compensation for loss of business "good will." It is the first court interpretation of a 1976 California law requiring payment for loss of good will in eminent domain cases.

• *Investing freely.* New York State's savings banks were substantially deregulated in June. They may now use an unlimited percentage of their assets for commercial loans, have unrestricted powers to invest in stocks and bonds, may invest in real-estate development and ownership, and may engage directly in leasing activities. "These provisions would allow banks greater freedom to invest their funds where they please rather than in the communities from which they derive their assets," complained Community Service Society activist Peggy Kerry.

• *Winning the number game.* Alaska state agencies will no longer require that people provide their Social Security numbers on state forms. This is the result of a long legal battle conducted by Elder Lebert, a Fairbanks, Alaska, carpenter.

—ROBERT W. POOLE, JR.,
PAUL GORDON,
AND ERIC MARTI



Now YOU can teach your child to read beautifully — by the time-tested phonics method. And it's FREE

New program developed by a pioneer in the private-school movement . . . and already proved succesful

Would you be curious about a reading program that can produce an unsolicited letter like this one? It's from W. M. of Westfield, NJ:

> I must write to express my wife's and my thanks for your excellent book. It has been so very valuable to us in teaching our 8½-year-old-son, Eric, to read . . .
>
> When I started on September 10th, Eric was almost totally retarded as a reader. Evidently he was one of those youngsters who refuse to attempt sight reading. I followed your book's instructions exactly. Would you believe that we went from Lesson 2 through Lesson 27 in two weeks? And by Thanksgiving we had drilled right through Lesson 117?
>
> Even you wouldn't believe the results! It was as if we were witnessing a miracle!
>
> Eric is now reading **Robinson Crusoe**, and is just loving it! He had been having headaches all through second grade and was losing weight. Since he started learning by your method, he hasn't been sick one day, and has gained weight rapidly to where he has a perfect physique.
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> Needless to say, we are grateful. Thank you so much for your excellent effort in helping countless parents, such as ourselves, in warding off the educational crippling of countless children.

The man who evokes that enthusiasm is Samuel L. Blumenfeld. Sam is an old friend of us here at the Club, and we've watched his interest in this problem grow over some 25 years. First as a New York editor and a member of the Advisory Council of the Reading Reform Foundation. Then as the author of several basic books in the private-school movement: *How to Start Your Own Private School — And Why You Need One; The New Illiterates; Is Public Education Necessary?;* and *How to Tutor.* Finally, as a teacher himself. Sam has the credentials, in abundance, so we'll let him describe the essence of this breakthrough program:

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> It can also be used as a supplement to any other reading program being used in the classroom. Its systematic approach to teaching basic phonetic skills makes it particularly valuable to programs that lack such instruction.
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> The book's step-by-step lessons in large, eye-pleasing calligraphy make it suitable for both direct one-on-one tutoring and regular classroom use. Parents who wish to teach their children to read at home will find the book particularly useful, since it is written in normal, everyday English and is free of the professional jargon characteristic of so many reading-instruction books.
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> All of the lesson pages were carefully designed to eliminate distraction and to focus the pupil's full attention on the work at hand. The Teacher's Manual, in the back of the book, provides teachers and tutors with the necessary instructional information for each lesson. The program, as a whole, is flexible enough so that any teacher or tutor can adapt it to his or her own teaching style or situation.
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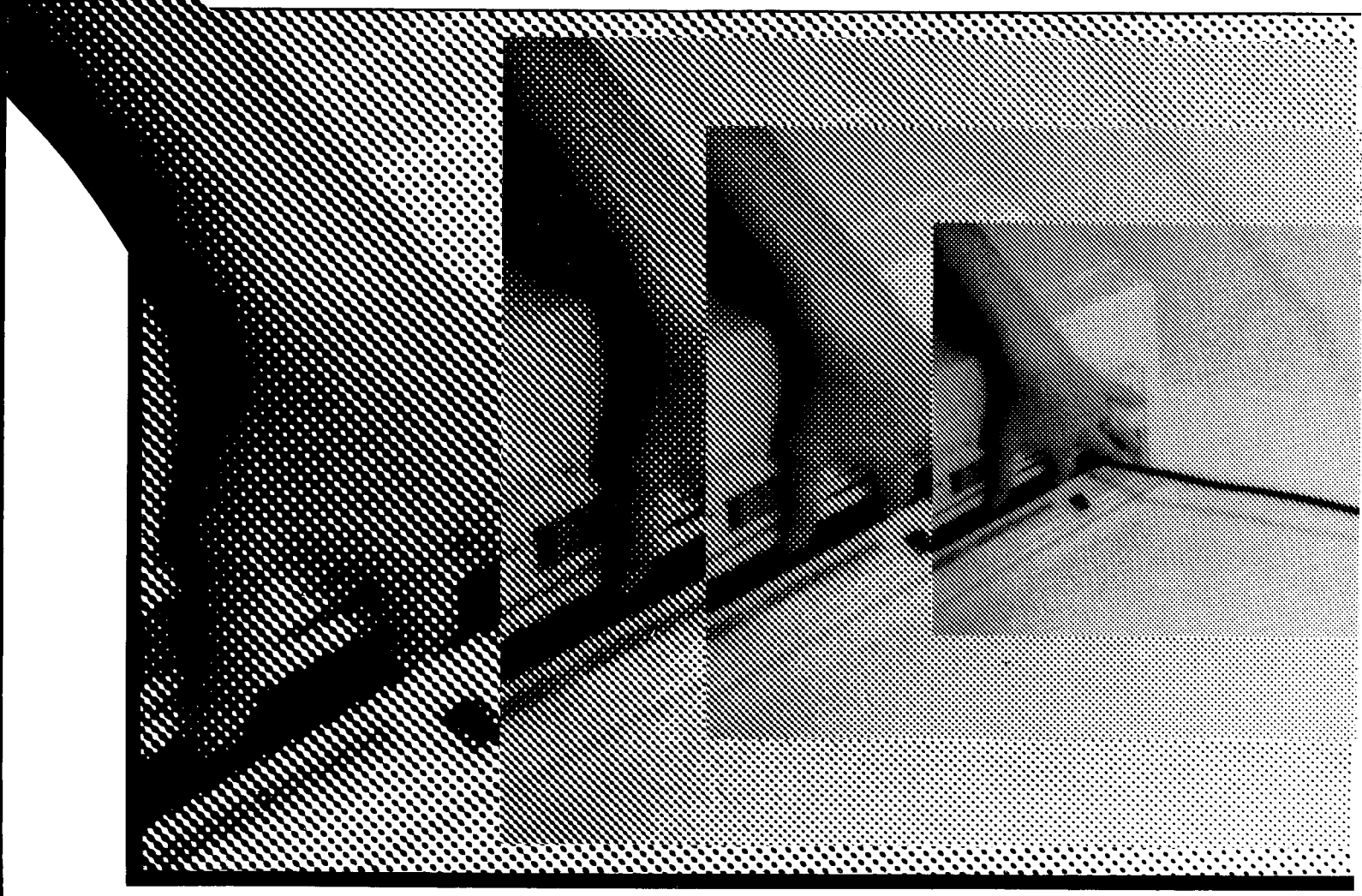


WILL THE PLUG

Workers who "commute" to work by compute opposing home wor

By David

Cindy Coombs, a housewife and mother of a 20-month-old baby in rural Lugoff, South Carolina, codes major-medical insurance claims for Blue Cross & Blue Shield of South Carolina.

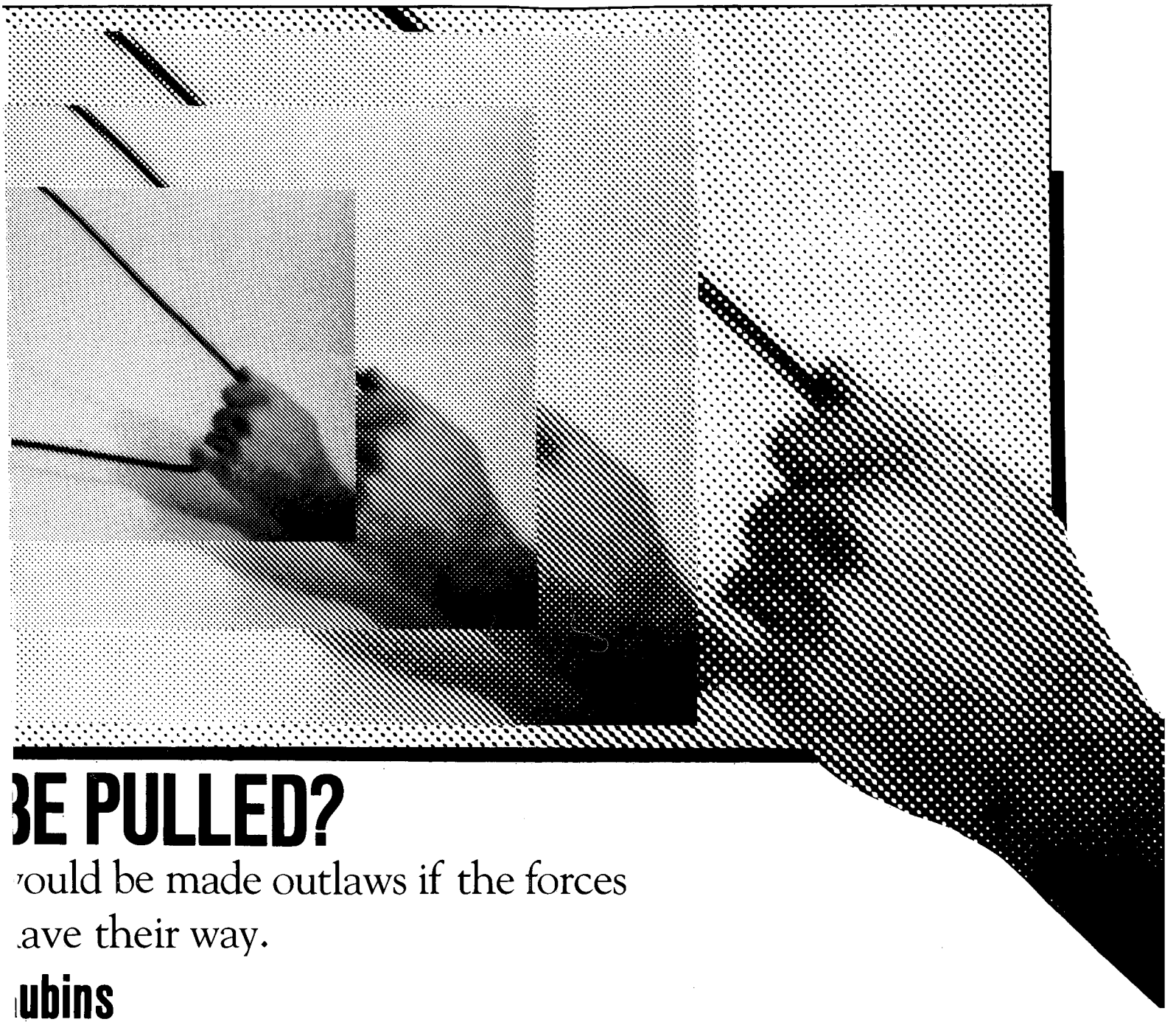
Joan Orke, who is disabled with arthritis, is a computer programmer for Honeywell in Minneapolis.

Warren Brookes, a resident of the Boston suburb of Duxbury, writes columns on economic issues for the *Boston Herald American* and about 15 other newspapers nationwide.

Carol Odich, an inmate at the Arizona Center for Women, works as a reservations agent for Best Western International hotels, headquartered in Phoenix.

It might appear that Coombs, Orke, Brookes, and Odich have little in common. Yet each of them is on the cutting edge of a phenomenon that could well transform the lives of many in the working population for the better—unless it is

MUTING



BE PULLED?

ould be made outlaws if the forces ave their way.

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stopped by its adversaries.

The phenomenon is "telecommuting." Even the name is fairly new: *Business Week* defines telecommuters as people who work at home but "commute" to a central office via computer. The last few years have seen enormous progress with communications equipment, computers, facsimile transmitters, and other telecommunications technologies. The result is that it is now possible for people at home to perform a variety of jobs that had been reserved for traditional workplaces. "Not too long ago, people who 'telecommuted'...were lonely pioneers on the frontiers of information processing," *Business Week* observed earlier this year. "But now, their success, coupled with rapid gains in technology, has kicked off a dramatic surge in the number of U.S. companies employing telecommuters."

The magnitude of a shift from a central workplace to the home is potentially

enormous. Oddly enough, though, no one, including the Census Bureau and the Bureau of Labor Statistics, has any reliable data on how many people are now telecommuting—or even how many work at home in any capacity. Because of the lack of hard figures, educated guesses of the number of telecommuters abound. Labor Department official Michael Ginley says, "I've seen estimates ranging from 3 million to 40 million." But two typical estimates are 11 million (from a recent study by AT&T), and 5-10 million, reported in *Consumer's Digest.* In any event, most observers agree that home workers are already a substantial part of the work force. As for the future, social-trends watchers such as Alvin Toffler talk of 15 million people working at home by the end of the decade, and *Consumer's Digest* says the figure could rise to 15-20 percent of the work force by then.

The prospect of such a dramatic increase, however, has not been universally welcomed. In at least one instance, local authorities have shut down a computer home worker because telecommuting violates local zoning laws. There is ample precedent for outlawing computer home work under federal labor regulations. And unions are sounding alarms about the prospect of expanding home work.

Meanwhile, publications such as the left-liberal *Nation* magazine are carrying the rhetorical banner against home work. A 1983 *Nation* article bearing the title "Home Computer Sweatshops" keyed into people's revulsion at the exploitation of workers attributed to 19th-century low-wage factories. "A wide expansion of electronic home work," warned the article, "will have serious social consequences."

Little evidence of impending serious consequences was adduced, although ominous charges were intimated—"nineteenth-century working conditions," "isolation," low pay, child labor to supplement the parent's earnings (this only *might* happen, conceded the author), and "disempowerment" of women. It seemed enough to note that businesses expect to save money by computer home work (so it must be hurting workers). And if that isn't enough evidence of its undesirability, consider this: "the New Right has embraced the concept of home work."

The *Nation* article never conceded that people are choosing home work. In fact, it suggested the opposite by referring to "those workers, especially women, who are compelled or pressured to accept it." Not surprisingly, the article ended up suggesting that a ban on telecommuting may be warranted.

Meanwhile, the scare phrase "electronic sweatshop" is gaining currency among opponents of the trend, at the same time as enthusiasts project the possibilities. Richard Adler, director of the Institute for the Future, a respected Menlo Park, California, think tank, is one of a team of authors who devised a scenario for 1998 that envisions a large shift to telecommuting. Adler suggests that the ranks of telecommuters will include "programmers, software writers, data analysts, information brokers, database managers, forecasters, planners, stockbrokers, designers, modelers, architects, journalists, authors, real estate information service agents, travel agents, and so on."

This scenario is not the stuff of science fiction. Much of what he forecasts for 1998 is already occurring in major American firms, including New York Telephone, American Express, Aetna Insurance, and Blue Cross & Blue Shield of South Carolina. Indeed, according to Marcia Kelly of the New York-based telecommuting consulting firm Electronic Services Unlimited, some 200-300 companies already have formal or informal telecommuting programs, and their ranks are growing.

"If I weren't able to work at home," said one telecommuter disabled by arthritis, "I'd be on Social Security. That means a lot to me."

Because of telecommuting's novelty, there is little empirical data so far on its effects on telecommuters themselves or on their employers. Most available information is anecdotal. But both the data that have been compiled and logic suggest an enormous advantage of telecommuting—it opens up the job market to people who might not otherwise be working, and it can make work more convenient and pleasant for people already working.

One group for whom this is true is women with small children, like Cindy Coombs. "When I found out I was pregnant, I wanted the job as a 'cottage coder' because I wanted to raise my kids myself and be home with them," she told me. "When my son David took his first steps, I didn't want to hear about it from someone else."

Coombs is physically present at Blue Cross & Blue Shield only a few minutes every day, when she picks up a new batch of claims to code and drops off the previous day's batch. "I pick up the work about 3:30 in the afternoon and I work on and off until 12:30 or 1:00 in the morning. There are things I have to work around, like doctor's appointments for the baby, and I can manage it this way," she said. "It's great to have the flexibility."

According to the Bureau of Labor Statistics, in 1983 there were nearly 48 million women in the labor force, about 43 percent of the working population. In addition, there were 7.4 million mothers who didn't work and had children younger than 6 years old. Many of those 7.4 million do not work because they cannot afford child care or it's unavailable in their area. Others, like Coombs, want to stay home to be near their children while they're young; and to judge from recent popular discussions, there's a growing trend in this direction as the baby-boom generation is moving into parenthood.

In many such cases, telecommuting offers a splendid way, sometimes the only way for women to combine employment and being near their children most of the day. Last year, Margrethe Olson of New York University's Graduate School of Management surveyed employees in home-based pilot programs, asking, among other things, why they wanted to work at home. The most frequent response: "young children."

Even for people who do not *need* to stay home, telecommuting can make working much more pleasant. "I love working at home," columnist Warren Brookes said in a telephone interview. "I have a separate part of my house for my work. If I feel like writing a column in the middle of the night, I can—and who's going to argue?"

Brookes writes his columns on a Xerox 820 personal computer, then conveys the copy electronically by telephone to three or four of the 15 papers that carry his column. (The other newspapers receive old-fashioned "hard copy.") Although he

travels into Boston every few weeks for interviews and conferences, he figures he could just as well do everything from his home. "It's easier to say bad things about a politician if you've just talked to him on the phone and not sat down to lunch with him," he observed.

"I know all about the telecommunications revolution," Brookes added. "It enables people like me to be one-man shows, to avoid organizational corporate nonsense."

Other up-scale professionals would agree. Consider the bucolic lifestyle of Madeleine P. Swift, vice-president of the Philadelphia brokerage firm Butcher & Singer. She makes $130,000 a year and, according to *New England Business*, she telecommutes from her farm in Corinth, Vermont, dressed for work in blue jeans, a cotton shirt, and clogs. People like Swift "do their jobs in often-verdant surroundings hundreds of miles away from their employers," says the magazine. "The biggest problem for their employers, some say, is the envy of their city-bound colleagues."

A telecommuting ban would make an outlaw of syndicated economic columnist Warren Brookes. Brookes writes his columns on a personal computer at his home in a suburb of Boston, then transmits them to newspapers via a computer-telephone hook-up. "If I feel like writing a column in the middle of the night," Brookes remarks, "I can—and who's going to argue?"

Telecommuting also offers new opportunities for physically disabled people when physical commuting to work is difficult or impossible. Joan Orke of Minneapolis is one. When she became disabled with arthritis, she had to move to her mother's home in nearby Rochester and she received Social Security disability payments.

"I was homebound at the time and very restricted in my mobility," she recently recalled, "but I wanted to work. I didn't like receiving a handout. I'd rather be a taxpayer." In 1981, she finally got a chance. Control Data installed a computer in her home in Rochester and provided an eight-month training program for her.

"I got my lessons on the computer," she told me. "I talked to my instructors over the computer. In fact, I could page my two instructors over the computer or talk to them by phone." Eight months after her training was completed, Orke was hired by Honeywell Corporation as a programmer, and she subsequently moved to Minneapolis.

Orke has regained sufficient physical mobility to travel two miles once a week to Honeywell's offices for staff meetings, but otherwise she still telecommutes from her apartment. She is a regular salaried employee at Honeywell, with the same wages and benefits as other programmers at her level. The only difference is the telecommuting.

"The people at Honeywell have been wonderful," she said. "Telecommuting makes it possible for me to work for them. I have flexibility in how I schedule my time. If I'm not feeling well, I can take a nap in the afternoon and work at night. If I weren't able to work at home, I'd be on Social Security. That means a lot to me. Most people don't like sitting around watching TV and reading books. I know I didn't."

There are other similar success stories, including American Express's "Project Homebound." In late 1982, American Express converted the New York City homes of 10 physically disabled, homebound individuals into electronic word-processing stations, as American Express senior vice-president James G. Raney, Jr., last November told a National Academy of Sciences symposium on office work stations in the home. In each home, the company installed a word-processing terminal, a central dictation system, and a telecopier, all linked to American Express headquarters. This was the first time that any company had tested home work stations providing total telecommunication rather than just electronic word processing.

Project Homebound was designed as a pilot project scheduled to last only nine months. However, it was so successful that in September 1983, American Express hired *all* of the participants in the program as full-time regular employees. "The pilot [proved]...that there is in this country a rich, untapped resource of trainable, competent, and highly motivated human potential," Raney observed.

American Express official Victor Hochman recently told me that the response outside the company to the project has also been overwhelmingly favorable. Project Homebound was conceived of as a local effort and so far has been tried solely in New York City, currently the only area where it's economically feasible. But, says Hochman, "I receive letters from all over the country asking about Project Homebound. I have a letter from someone in South Carolina asking when we're going to expand to include people outside of New York."

Telecommuting also opens up employment possibilities for prisoners, as Carol Odich knows from first-hand experience. At the Arizona Center for Women (ACW), a minimum-security correctional facility in Phoenix, she is one of 30 inmates who work as Best Western reservations agents in a facility the company has installed at the center. Of every 100

Photograph by Kevin A. Twombly

customers who dial Best Western's toll-free number to make a hotel reservation, five to seven are helped by Odich or her colleagues at ACW.

Odich walks about 500 yards to work. Her hourly wages are the same as those of Best Western reservation agents outside—$4.12 beginning pay, $4.31 after 90 days—although the ACW inmates aren't eligible for Best Western employees' benefit package. She must pay 30 percent of her after-tax income for room and board at ACW, another 30 percent goes to support her son, and the rest is divided between an account that she can spend at the prison store and a deposit account to which she will have access when she leaves ACW. It is not a lavish salary, and the garnishments from her paycheck are steep, but she observes that it is a lot better than the 20 cents per hour she made in her last prison job as a cook.

Odich is very enthusiastic about her Best Western work. "Once I get out, I won't have to be a waitress or a cook or a maid," she told me. "My home is in Florida, and when I go back there, I'll have training to make something of myself. I'd never worked at a computer in my life before now. It's a real advantage to have these skills."

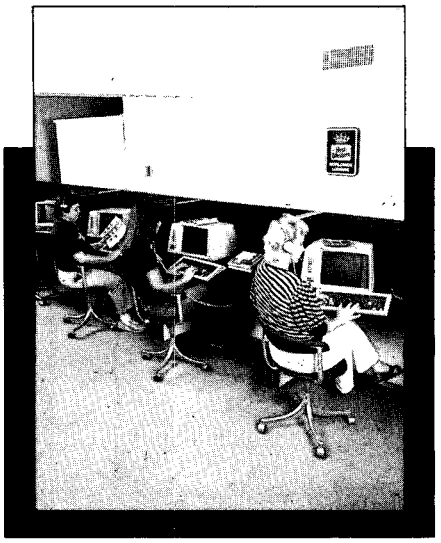
Best Western has trained and hired a total of 130 ACW inmates since the program began in the fall of 1981. Many of the workers have been able to take their families off welfare as a result (one even started her own bakery business within the prison). Moreover, eight ex-inmates have been hired by Best Western after being released from ACW. They and Best Western have the new phenomenon of telecommuting to thank.

For inmate Carol Odich, telecommuting brings new opportunities—not exploitation, as critics fear.

The benefits can be impressive for those who are actually telecommuting, and they can be substantial as well for businesses. As part of her study of formal work-at-home pilot programs last year, Margrethe Olson of New York University asked companies why they had started such programs. The firms' responses included:

- cost savings realized by not paying employee benefits to home workers (although this is not the policy of all companies that employ telecommuters) and projected cost savings resulting from reduced office-space requirements
- increased employee productivity, both in situations where productivity is not directly measurable and in instances where employees are paid on a piecerate, contract, or hourly basis;
- the tapping of an otherwise inaccessible labor force;
- social responsibility to increase employment of the handicapped; and,
- a shift of computer utilization to "off-peak" hours, since many home workers use computers during evenings and weekends.

Most of Olson's findings are borne out by other reports. Increased productivity is probably the most frequently cited employer benefit. Last November, Greg Geisler—then an executive with Blue Cross & Blue Shield of South Carolina, where Cindy Coombs works—told the National Academy of Sciences homework symposium about his employer's experience with telecommuting. When the company calculated an "optimum day's work" standard of productivity for keyers and coders of major-medical claims, it found that the units produced per hour by the in-house keyers and coders averaged 76 percent of the standard while the cottage workers had chalked up an impressive 102 percent.



Through Best Western's prison telecommuting program, inmates learn valuable job skills.

Ron Manning of Control Data noted at the same meeting that *all* of the 27 employees in Control Data's Alternative Work Site programs believed they were more productive away from the office. Their managers estimated productivity increases of 20 percent.

In both of those cases, most of the workers are clerical employees and computer programmers, but this productivity increase reportedly occurs with professional-level employees as well. At home, "you're not into office distractions," Frank C. Knight, Jr., the telecommuting manager of New York Telephone, told *Business Week*. "I can put a letter or a memo together in half an hour that would previously take half a day."

Some analysts suggest that telecommuting's potential benefits reach far beyond those directly involved. In a 1983 study prepared for the California Energy Commission, JALA Associates pointed out that telecommuting could save some of the large amounts of energy now consumed in commuting to and from work. Looking at California alone, they figured that telecommuting could save 202 million gallons of gasoline annually, or about 2 percent of the state's annual consumption, by the year 2000. On top of this, there would be a reduction in rush-hour traffic jams now plaguing California's metropolitan areas, as well as positive effects on air quality and land-use patterns.

So what's wrong with telecommuting? Why the hostility to it evidenced by the pejorative label "electronic sweatshop"? Despite all of the actual and potential benefits to workers and employers, telecommuting confronts an array of obstacles and adversaries. The *Nation* article "Home Computer Sweatshops" is only the tip of an iceberg.

Probably no institution has been more vocal than labor unions in opposing telecommuting. The Service Employees International Union (SEIU), whose 780,000 members are mainly clerical and health workers, has banned computer home work for its members. And in October 1983, the AFL-CIO adopted a resolu-

Photographs courtesy Best Western International, Inc.

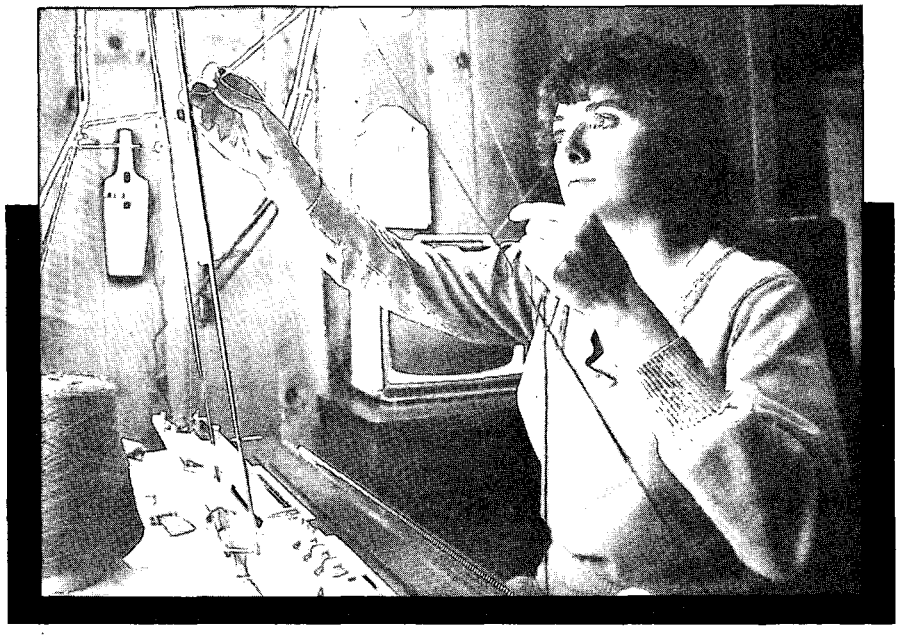
tion calling for the federal Labor Department to ban all computer home work "as a measure of protection for those workers entering the market for the fastest growing occupation in the United States," telecommunications.

A Labor Department ban on computer home work would not be without precedent. In seven other industries—knitted outerwear, women's garments, embroidery, handkerchief manufacturing, jewelry making, button and buckle manufacturing, and glove and mitten manufacturing—virtually *all* home work has been completely banned by the Labor Department since 1943.

The 1938 Fair Labor Standards Act, a cornerstone of New Deal labor legislation, passed with union support, gave the Labor Department the power to ban home work in industries where it believes that minimum-wage legislation can't be enforced. In 1942 a Labor Department official reported that "there are many opportunities for evasion of the minimum wage standards which are inherent in the home work practice." He cited examples of numerous minimum-wage violations in the garment industry. This view was seconded by a carefully selected "blue-ribbon" committee composed of employers (mainly large garment manufacturers), employees (mainly officers of the International Ladies' Garment Workers Union), and the public (mainly academics). So in 1943, the Labor Department duly issued a ban on home work in the garment industry.

In at least one area, New England, the Labor Department's enforcement of the ban had become a desultory affair by the 1970s. As a result, workers in New England were able to do a thriving business knitting skiwear and other outerwear in their homes. Cecile Duffany was one. A senior citizen in Manchester, Vermont, she was knitting ski caps and scarves on her kitchen table to supplement the Social Security and veterans benefits her husband receives. Vermonter John McClaughry, a policy analyst, recently wrote about Mrs. Duffany and other Vermont knitters in the *Quincy* (Mass.) *Patriot Ledger*. She didn't have to venture out in cold weather to go to work, purchase work clothes, or meet a 9-to-5 schedule. "For some two hundred such women in rural Vermont," McClaughry observed, "knitting at home is a heaven-sent opportunity."

Unfortunately, the Fair Labor Standards Act contains no exemptions for heaven-sent opportunity. In 1980, Labor Department officials advised Duffany's employer, CB Sports, that the home-based knitting was in violation of the law. CB Sports ended its arrangements with home-based knitters, but when word of the enforcement action spread, the Carter administration announced an inquiry into whether the knitted-outerwear ban should continue.



Audrey Pudvah is one of a number of Vermonters who have defied federal law by knitting at home for pay: a 1943 Labor Department order bans such home work. Telecommuting might be in for the same.

A year later, the Reagan administration was in power, and among its appointees was McClaughry, who lobbied vigorously as a White House senior policy advisor for ending all the homework bans, not just the one on knitted outerwear. When David Putnam of Stowe Woolens wrote to McClaughry soliciting his support for ending the ban, McClaughry replied: "You don't have to sell me on the merits of repealing the industrial homework regulations. I am strongly in favor of complete repeal and have advised Secretary [of Labor Raymond] Donovan of that fact."

Donovan, although less steadfast in his views than McClaughry, was sympathetic. With McClaughry's encouragement, he subsequently made two major attempts, first in 1981 and again on March 27 this year, to rescind the ban on knitted-outerwear home work.

So far, however, neither attempt has been successful—the International Ladies' Garment Workers Union (ILGWU) has successfully challenged Donovan's actions in federal court. The chief legal issue, given the 1938 law, is whether the Labor Department could effectively enforce minimum-wage laws for garment-industry home work if the ban were lifted. Last November, the Court of Appeals in Washington concluded that it could not, but the Labor Department has asked the Supreme Court to review the appeals court decision.

In much of the legal brouhaha, the knitters themselves have been corepresented by the Center on National Labor Policy in Virginia and the New England Legal Foundation in Boston. Robert Ruddock, an attorney with the New England Legal Foundation, worries that the appeals court decision upholding the ban could pave the way for a similar ban or restriction on telecommuting. The rationale for such a ban would be that it is just as difficult for the Labor Department to enforce minimum-wage laws for telecommuting as for garment-industry home work.

According to Ruddock, Donovan may be searching for a compromise scheme for the knitted-outerwear industry. To demonstrate that the Labor Department can enforce minimum-wage laws and thus undermine the union position, Donovan may propose some sort of registration system for the home knitters to keep close track of their work and output. But Ruddock is skeptical of the feasibility of any attempt to strike a balance between preserving the existing ban on home work (as the union wants) and eliminating it altogether (as the knitters want). "I think if it's anything but prohibition of home work," he told me, "the unions will probably go back to court. And if Donovan's proposal is unduly burdensome for our clients, *we'll* go back to court."

It is conceivable that the wrangling among Donovan, the knitters, and the garment-workers' union could be upstaged by legislation introduced earlier this year by Sen. Orrin Hatch (R-Utah). Hatch's bill would amend the 1938 Fair

Photograph by Ira Wyman/*New York Times*

Labor Standards Act to permit all industrial home work so long as the minimum wage is being paid. This would, of course, end the existing ban on home work in the seven garment industries. More significantly for telecommuters, the bill would effectively quash the assumption that the minimum wage is inherently unenforceable for some types of home work, so there would be no chance that any other kinds of home work (such as telecommuting) could be banned under the aegis of the Fair Labor Standards Act.

The Senate Labor and Human Resources Committee held hearings on Hatch's proposal last February. But there is little chance of the bill being seriously considered in an election year because of union opposition.

Why are unions so opposed to telecommuting? At last November's National Academy of Sciences symposium on home work, Dennis Chamot, assistant director of the AFL-CIO's Professional Employees Department, suggested that the perils of home work in the 1800s and early 1900s—health and safety hazards, child labor, wages equivalent to 25 cents per hour in current dollars—indicate working conditions that lie ahead for many telecommuters. "The history of past experiences with industrial homework in this country should make us very sensitive to the danger of abuse," he charged. "The social and economic conditions that led to past abuses are present today, and there is no reason to assume that computer homework will be immune."

Yet Chamot was unable to muster *evidence* of "telecommuting sweatshops." He did cite two instances in press reports of lower pay and fewer benefits for telecommuters than for comparable office workers—but even he had to admit that "these are, of course, anecdotes. They do not necessarily prove that exploitation is widespread." Ironically, one of the two anecdotes involved Blue Cross & Blue Shield of South Carolina. At the very symposium where Chamot was speaking, Blue Cross & Blue Shield official Greg Geisler delivered a paper maintaining that the average base income of the firm's "cottage keyers"—paid on a piecework basis—was $17,916 annually, compared with only $11,285 for the firm's "in-house keyers," who do the same work but for an hourly wage.

Also undermining the "electronic sweatshop" picture, Chamot himself alluded to a vast difference between telecommuters in the mid-1980s and impoverished glove makers in the early 19th century. "It is undoubtedly true," he allowed, "that there is a strong element of predisposition and self choice among today's electronic homeworkers." Less obliquely, telecommuters are telecommuting *largely because they choose to*!

Karen Nussbaum, who is both the executive director of 9-to-5, the National Association of Working Women, and president of a district local of the Service Employees International Union, told me that the SEIU opposes telecommuting because "there's very little difference between telecommuting and other kinds of home work." (Apparently the evils of other kinds of home work are self-evident.)

In seven industries, virtually *all* home work has been banned by the Labor Department since 1943.

"The potential for companies violating minimum-wage rules is great," charged Nussbaum. "Home workers have reduced expenses for clothing, commuting, and child care, but the costs of being isolated are much greater for them in the long run," she continued. "When they're working and taking care of their children, they're performing two jobs at once. We think that home work is a bad solution for the problem of low pay for clerical workers and inadequate child care."

Of course, it is not hard to see that for many people, telecommuting could be less lucrative and pleasant than work options available in conventional workplaces. But that would hardly explain union opposition to *all* telecommuting.

Union leaders—like entrepreneurs, workers, parrot smugglers, and nephrologists—tend to judge a major economic change according to the benefit or harm they believe it will bring them, and telecommuting's early trend has not been auspicious for unions. With union membership already on the decline among American workers, and with the traditionally unionized industries like autos and steel in trouble, many unionists place high priority on organizing the "pink-collar" (clerical) workers who are also prime candidates for telecommuting. And the unions' goals in this area could be seriously jeopardized by a shift to telecommuting.

The AFL-CIO's Dennis Chamot explained the unions' concern to me succinctly: "It's very difficult to organize workers dispersed over a wide geographical area. It's possible that electronic homework might be a bit different. If they're connected through a communications web, organizing might be a little easier. But in the past, when there has been a handful of workers in a lot of different locations, trying to organize them has been horrendous."

Partly because unions are currently as weak as they are, their opposition to telecommuting has been a fair amount of bark and almost no bite so far. Much of their energy is spent defensively, such as lobbying against the Hatch legislation to keep past victories—like the ban on garment-industry home work—from unraveling. There's not much political capital left over right now for expanding the ban to other occupations. But things could change. Telecommuting could be stopped cold without any new legislation. In an administration less immune to union pressure than is Reagan's, a pro-union Labor Department secretary could ban computer home work via regulation, on the argument that enforcement of minimum-wage laws would be impossible for telecommuters.

So far, resolutions against computer home work passed at union conventions have not moved mountains. So a federal ban on telecommuting is not an immediate threat, however venomous the rhetoric about "electronic sweatshops." But there are other, possibly darker, clouds on the horizon—an array of government restrictions at the state, local, and federal level.

Right now, state governments seem to pose the least danger. Many states routinely regulate and occasionally even ban certain types of home work, but so far at least, telecommuting has reportedly not fallen victim to any state government.

For example, New York State has some of the most stringent labor legislation in the country. Since at least 1935,

the state government has banned all industrial home work, that is, manufacturing done in workers' homes, with the employers usually providing materials and equipment. The state's Labor Department in Albany vigorously enforces the ban, according to department senior attorney Frederick Hmiel. But when the department received a complaint recently involving computer home work, its staff concluded that computer work is not subject to the ban on industrial home work. Typing is exempt from the ban, and the department decided that computer home work is sufficiently similar to typing to qualify for the exemption. Hmiel said his department "didn't find any other case in another state where computer home work had been banned, so we were pretty much on new legal ground."

Despite unions' political strength in New York, the state legislature has followed the state Labor Department's lead and shown no interest in restricting computer home work. Thus, at least for the time being, telecommuters can pursue their livelihood in a state where the chances of restriction (if not prohibition) are as great as anywhere in the nation.

At the local level, however, telecommuting's treatment has often been more problematic. "Those of us who plop down our Apples in the office at home or in the rec room are probably not in any danger of violating any local ordinances," commented former Labor Department assistant secretary Donald Elisburg recently. "But if the work stations spread and it becomes popular, there may be more consideration of local zoning laws as to whether such installations are permitted." Yes, zoning laws.

In general, local zoning laws already regulate any work done in the home in some manner and often require home businesses to obtain permits. Thus far, such laws have rarely been used against telecommuters. Chicago is an exception. Its city code stipulates that except for certain professionals, who may use their residences for "consultation, emergency treatment, or performance of religious rites," all home work is taboo when it involves the "installation or use of any mechanical or electrical equipment customarily incident to the practice of any such professions."

Thus Chicago's code technically makes outlaws of such shady characters as Coralee Smith Kern, a grandmother who runs a maid service, called Maid to Order, out of her home and heads the National Association for the Cottage Industry. Earlier this year, at the Senate Labor and Human Resources Committee hearings on the Hatch proposal to end home-work bans, she admitted, "I operate that business from my home illegally because of zoning." But she vowed that she "will quit conducting that business at home when the Governor of the State of Illinois quits conducting business at home."

The silliness of the ban also occurred to Prof. William Toner in 1976 when he was working at home in Chicago on a report—appropriately enough—on home-occupation planning for the Chicago-based American Society of Planning Officials, now the American Planning Association (APA). To find out for certain whether the city government was in fact

In at least one instance, local authorities have shut down a computer home worker because telecommuting violates local zoning laws.

construing nearly all home work to be illegal, he checked with local authorities. He concocted a story that he built doll houses in his home and was selling them by mail. He called the information desk at city hall for advice—but the line was repeatedly busy, so he tried the building department, which transferred him to the information desk, which transferred him to zoning.

Finally, he got his answer. "You are in violation of the law. You can't do this, and, if someone complains, you'll be in trouble. If you came to get a permit, they wouldn't give you one," a zoning official told him. Toner observed that this was rather bad news for some of his neighbors, including a guitar teacher next door, a part-time lawyer, a bicycle fixer, a bread baker, baby sitters, and authors—"all breaking the law, all performing a solid service."

It was eight years ago that Toner's report was published, but as of this writing, Chicago's ban on home work is still intact. "The law is one of the nation's most restrictive," Toner told me. "It's structured so that there's a good chance it would be illegal for Saul Bellow to write a Nobel Prize-winning novel at home."

Chicago authors less well known than Bellow are as vulnerable—perhaps more so. Patrick O'Connor, a teacher at DeVry Institute of Technology, is one. He was using a computer in his basement to rewrite a textbook on digital electronics and microprocessors, and his wife was writing a software program for schoolchildren, when they felt the velvet touch of Chicago's zoning law: they were issued a cease-and-desist order by the city for violating the city's restrictions on home work that requires mechanical or electrical equipment. "I called up Studs Terkel and other authors who live in Chicago," O'Connor recalls. "None of them had ever heard of the law. Terkel thought it's outrageous."

Others agreed. In the *Chicago Sun-Times* and *Chicago Tribune*, columnist Mike Royko attacked both the law itself and city officials who enforced it against the O'Connors. "The way the law reads, it could be interpreted to mean that even a common pocket calculator could be illegal if it is used for business purposes," Royko noted. "So if an alderman sat down in his parlor and used his pocket calculator to figure out his day's profits, he might be violating the zoning laws."

O'Connor told me that his own alderman, Roman Pucinski, has been supportive and even journeyed with the O'Connors to the zoning board to help plead their case (Pucinski's office is kitty-corner from the O'Connors' home, and he vouched for the fact that their word processors were not disturbing the neighborhood). Zoning officials turned a deaf ear. Then, last April, zoning official James Wilkes told O'Connor at a public conference that the cease-and-desist order had been rescinded—but when O'Connor asked Wilkes to put that in writing, Wilkes refused. "Legally, things are still in limbo for us. They could clamp down again anytime," said O'Connor.

Alderman Terry Gabinski, who chairs the city council's zoning committee, is somewhat vague on the prospects for change. When I interviewed him by phone, he offered an interpretation of the law unlike any other: "As long as someone's doing homework in the *true* sense, that's okay." He wouldn't explain what "home work in the *true* sense" means, but he also declared, "We're working on the law. We're going to develop a situation where people can work at home." Asked for his view about how the law

should be changed, he said, "I don't have a personal view on what the change should be. That's a technical matter. I'm a legislator, not a lawyer." He also wouldn't predict whether it would take weeks or months before the law is changed.

Meanwhile, O'Connor said that he and his wife no longer work at home, but he continues writing a column for the magazine *Computer Use*. "I took a lap computer and wrote my last column while I was riding in a CTA bus." He added sarcastically, "This must be illegal, since buses aren't zoned for business use."

Horror stories as awful as the O'Connors' actually appear to be uncommon. The Chicago city code is, as planning expert Toner says, especially restrictive of home occupations. Also, as in most cities, Chicago's zoning enforcement is complaint-based: with few exceptions, zoning authorities there crack down only when they receive a complaint from a citizen, so a telecommuter has little to fear so long as he or she carefully keeps work activities a secret from hostile neighbors.

Yet the O'Connors' travails illustrate the destructive potential of local zoning laws that are on the books in most other locales, too. Earlier this year, for example, the city fathers of Morton, Illinois—the "City of Beautiful Homes"—passed an ordinance banning a huge range of home occupations including bookkeeping services, exercise studios, and palm readers. And two years ago, their slightly more lenient counterparts in Manassas, Virginia, tenaciously fought a case all the way to the Virginia Supreme Court so that they could retain the legal right to restrict home businesses to those that employ only immediate family members.

It's hard to know just how typical such policies are nationally. The National League of Cities says that no data are systematically tabulated on local zoning restrictions of home occupations. But there are solid indications that at least some local governments are considering changes that augur well for telecommuting.

Edith Netter, a noted land-use attorney in Hartford, Connecticut, and a member of the American Planning Association's board of directors, predicts that local planners and zoning officials are tending now toward a "performance approach." That means moving away from blanket bans on particular types of work and looking instead at whether a business generates noise or odors or increases neighborhood traffic. If cities are inclined to follow the professional planners' lead, it's likely that telecommuters, who are usually not noisy nor smelly and do not generate much neighborhood traffic, will stand to benefit.

It's too early to know for certain how telecommuting will be treated by the federal government. Just as this new employment opportunity is in its infancy, so is regulation of it. The most far-reaching possibilities would be either a ban under the aegis of the Fair Labor Standards Act, as advocated by the AFL-CIO, or federal registration of all telecommuters, similar to what Labor Department secretary Donovan may envision for garment-industry home workers.

If a government agent were intent on inspecting a telecommuter's living room, would the worker-resident have the right to resist?

But there are other possibilities of regulation. While they are certainly more modest than an outright ban or registration scheme, they could still dampen both workers' and employers' enthusiasm over telecommuting.

At last November's National Academy of Sciences symposium on telecommuting from home, former Labor Department assistant secretary Donald Elisburg speculated on ways that the federal government might regulate or restrict telecommuting. Much of that regulation would hinge on whether telecommuters are considered employees of a company rather than contractors, and so far, the Labor Department has generally ruled that they are employees. Elisburg noted that employee status could mean that telecommuters are subject to the Fair Labor Standards Act (which includes requirements not only for the minimum wage but also for overtime pay, maintenance of certain records, and prohibitions against child labor); federal, state, and local equal-employment opportunity laws and regulations; the Services Contracts Act, if the employer is a federal contractor; and requirements of the Occupational Safety and Health Administration (OSHA).

And there is more. According to Elisburg, employee status also entails requirements for employers, including Social Security participation, unemployment-compensation insurance, the obligation to offer telecommuters the same pension plans available to other employees, and possibly an obligation to offer the same medical plans available to other employees. "If there is a view that this work can be done on the cheap, it's a big mistake," Elisburg concluded.

These are all conditions with which employers and employees in other sectors of the economy are familiar, and most have accommodated themselves to them. But the organization of telecommuting might pose special problems. For example, would a telecommuter's den, like a cement factory or auto assembly plant, be subject to OSHA inspections and regulations? And if an overzealous OSHA inspector were intent on conducting a detailed inspection of a telecommuter's living room, would the worker-resident have any legal right to resist?

So far, these are open questions. That is partly because no such cases have evidently arisen yet. OSHA spokesperson Chris Graybill says that the agency deploys its resources in industries where there is a substantial risk to workers' safety, and living rooms are not thought to pose great risks. He was able to find no cases where OSHA regional offices have inspected people's homes in telecommuting or other occupations. Still, the potential for a legal morass evidently exists, especially if a federal study of video terminals now under way eventually leads OSHA to conclude that many or all such terminals violate federal health or safety standards.

So telecommuting is certainly not home free. It faces a number of hazards, some potential and some already present. If the growth of telecommuting is eventually stunted, the culprit could be an outright ban or a draconian system of registering telecommuters, but it is more likely to be an accretion of pettier regulations—a zoning ordinance here, an OSHA regulation there.

Left to its own devices, telecommuting probably would and certainly should flourish, providing millions of Americans one more opportunity for exercising choice in their lives. But there's no way to know whether telecommuting *will* be left to its own devices. ◻

David Rubins is a free-lance writer who cannot be parted from his personal computer, "Vicky," but may or may not work at home.

SWEET TRUTH

What do scientists really know about saccharin? And what does it mean for the regulators?

By Elizabeth M. Whelan and William R. Havender

Saccharin has come to mean much more than an artificial sweetener. For seven years, the Food and Drug Administration (FDA) has been trying to ban its use, acting under laws that give the agency authority to ban any food additive that has been found to induce cancer in humans or animals. And for seven years Congress, prompted by heated consumer opposition to a ban, has prevented the FDA from taking saccharin off the market.

Thus *saccharin* has come to stand for issues of much wider significance than merely whether Americans can quaff diet pop or indulge a sweet tooth. Regulators have viewed it as a test case whose resolution will have a precedent-setting impact on food-safety regulation and the role of regulatory agencies in general. Scientists have viewed it as central to determining the role of science (and hence of scientists) in setting public policy. Consumers have seen it as entailing a serious issue of regulators' power over their lives. And students of public policy have seen this issue as making manifest disagreements over principles of decisionmaking in a free society.

Indeed, these wider considerations probably are more important in determining the attitudes of the various players than are concerns about the actual level of measured risk. Still, the nominal arguments—the ones ostensibly dominating public debate—are almost always couched in terms of science and the law: What is the validity and proper role of high-dose animal tests in predicting human cancer risk? How can long, apparently safe human experience with saccharin be incorporated into a wise regulatory decision? What are the applicable laws and precedents? And so on.

Discussions of value questions, if they are to be profitable, must to some degree be constrained by facts. In this case, a survey of the pertinent science will set bounds within which questions of value can be usefully examined. So it is important to look at the relevant scientific considerations before turning to the value issues raised so poignantly by America's long-running saccharin controversy.

The FDA moved in 1977 to ban saccharin because studies linked high doses of saccharin and the development of cancer in rats. Four independent tests have now shown this, and there are no tests of suitable design that have failed to yield this outcome.

Yet there are two central matters of controversy in the attempt to interpret this finding in terms of human risk. The first of these concerns the large dose used, which in the four tests was the equivalent of a human drinking approximately 1,000 cans of diet pop every day of his life.

The central question is whether such a high dose (just slightly below the dose that would actually poison the animals to death) might itself predispose the animals to develop cancer through weakening, or overwhelming, their resistance. Things might happen in such stressed animals that do not happen at all, or at least not in proportion, at the much lower doses typical of human use. If so, this would have an important bearing on the degree of risk imputed to humans.

For a long time, scientists didn't know

Illustration by Bruce Jones

much that could throw light on this question. But in the last several years they have produced a wealth of pertinent, new information concerning high-dose tests for both cancer-causing agents in general and saccharin in particular.

The most important body of this information has come from tests for the incidence of animal cancer at different doses of various substances. (These dose-response tests still constitute only a small fraction of animal cancer tests, because they are large and difficult to do.) The largest study, which involved 24,000 mice, was carried out at the government's National Center for Toxicological Research. A potent cancer-causing chemical (2-acetylaminofluorene) was fed to the mice in their diet at doses ranging from 30 parts per million (ppm) to 150 ppm.

A significant tumor response was seen only in two organs, the liver and the bladder. Even casual inspection of the figures for bladder tumors showed that the results were compatible with the existence of a "threshold"—that is, a "no effect" level, or "safe dose," below which tumors would not occur or would be unlikely. This stands in contrast to the regulators' normal assumption that the dose-response relationship is linear, with the risk of cancer declining exactly proportionally as the dose level is reduced. In fact, in this study, the incidence of bladder tumors declined much more rapidly in the low-dose range; and using the linear assumption to estimate the risk of bladder cancer at low doses, based on the incidence at high doses, would overestimate the *actual* measured risk by more than tenfold.

The liver tumors, on the other hand, looked on simple inspection to decrease steadily in proportion to dose over the tested range. But even here, close statistical analysis showed this not to be the case; the incidence of cancer in fact decreased more rapidly in the low-dose range. This means that estimating the cancer risk at much *below* the tested range by assuming a linear relationship would overestimate the risk by many times.

Thus, both of the sites showing cancer response in this enormous test were incompatible with the assumption of a linear dose-response relationship. For both sites, things do seem to occur at high doses that do not occur in proportion at low doses. The significance of this finding is that it contradicts a key assumption—that cancer risk is proportional to dose—in estimating the likely degree of human risk from saccharin use on the basis of animal tests.

This finding is by no means isolated. One scientist recently examined the results of *every* reported animal test with a design suitable for assessing dose-response relationships (suitable tests have multiple doses and adequately high numbers of animals). It was found that 31 tests, involving 15 chemicals, met this standard, and all but 4 of the 31 tests had dose-response curves incompatible with the linear assumption.

The results of a new test on saccharin reported in May 1983 further confirm the nonlinear, "threshold" concept. This test used the same two-generation design as the previous three tests on saccharin that had produced tumors. It also used the most-sensitive species, strain, and sex, based on the earlier studies (Sprague-Dawley male rats). The important difference is that this study was specifically designed as a dose-response study, in contrast to the earlier three studies. As in those studies, tumors of the bladder were seen at the higher doses. But the results were dramatically incompatible with the linear hypothesis that cancer incidence is directly proportional to dose. In fact, the results showed that a 100-fold decrease in dose would be accompanied by a 1-million-fold decrease in tumor risk, rather than the 100-fold decrease predicted under the linear hypothesis.

As more and more data accumulate, these strongly suggest, both for high-dose tests in general and for saccharin in particular, that estimating cancer risks at low doses from the results of experiments using high doses tends to overestimate the true risk by many orders of magnitude. This is a *very* significant finding with respect to saccharin. In its estimates of human risks, the FDA relied on the twin assumptions of linear extrapolation from high to low dose and of equal human and rat susceptibility. The agency also used liberal estimates of saccharin consumption by people. Even on these assumptions, the FDA's maximum estimated risks were in the low thousands of cases of bladder cancer annually. Decreasing a number that is already so small by even a *few* orders of magnitude wipes it out.

Predictions of cancer risk from animal tests to humans have never been validated, even qualitatively, and this is the second major area of controversy in interpreting the saccharin-cancer link in rats. This is true of animal tests generally and especially, because of their unusual two-generation design, of the *saccharin tests*. This assertion may well startle the reader, but it is true and bears explanation.

What is the record of rat and mouse cancer tests in predicting cancer generation in humans? The usual response to this question is to reverse its terms and focus on how many human carcinogens have been shown to be animal carcinogens. This is in fact a *very* different question, but the answer to it is that of all the chemicals with a well-defined nature that have been shown to cause cancer in humans, all but one or at most two of them have also been shown to cause cancer in animals.

It is frequently assumed that if the correlation in this direction is so good, then the correlation in the reverse direction is likely to be pretty good, too—in other words, that practically all chemicals shown to be carcinogens in animals must be able to cause cancer in humans as well. This reasoning, however, is logically incorrect; just because all lima beans are vegetables does not mean that all vegetables are lima beans. The crucial question, then, is, How often does a chemical that causes cancer in laboratory animals turn out *not* to be a carcinogen in humans? In short, how often are predictions from animals to humans wrong?

No one knows. This is because a vital piece of information is missing: a list of chemicals that have been thoroughly examined in studies of the incidence of human diseases (epidemiological studies) and have shown indisputably negative results. Just as in animal cancer tests, all epidemiological studies are limited by their size and design and can only potentially detect cancer incidences larger than the statistical limit set by their design. Failing to find a positive result thus will set a "cap," or upper bound, on the possible incidence, but it can never establish that the incidence is perfectly zero. So there are no chemicals that have been adequately studied in humans and that everyone agrees to be completely incapable of causing cancer. This lack means that there is no way to *test* whether a positive outcome in an animal test can lead to a false inference of carcinogenicity in man. For in any likely such instance, one can always argue that the human data, no matter how extensive and no matter how apparently negative, are still "consistent" with a small positive effect below the statistical power of the studies to detect. Thus, we have no way of discovering how often animal tests make *falsely* positive predictions vis-à-vis humans.

And how often have animal tests made *correctly* positive predictions in humans? There are, so far, out of the hundreds of

chemicals that have by now given positive results in at least one animal test, just *seven* substances for which animal data *preceded* the showing of carcinogenicity in humans. But there was no way to know *prospectively* that it would be *these* seven, out of the hundreds of positive animal carcinogens, that would be vindicated by later human data. Obviously, one cannot cite just these few favorable instances to argue that animal tests are in general excellent predictors of cancer risk in humans. The upshot, then, is that we really have no way of knowing how many of the chemicals that are carcinogenic to animals are also carcinogens in humans.

The fact that we have no way to measure the frequency of falsely positive predictions takes on very serious overtones in the light of the policy decision of the regulatory agencies. That decision has been to resolve all questions of scientific uncertainty in the interpretation of animal cancer tests on the basis of "prudence"—that is, by assuming the worst in each contested instance. Such choices include: use of the Maximum Tolerated Dose (MTD) in animal tests so as not to miss weak carcinogens; the assumption that risk and dose have a linear relationship; taking the results in the most-sensitive species and strain and sex as the basis for estimating human risk; ignoring the experience of decades of safe use by humans or ignoring other, negative animal evidence; counting nonlethal tumors as though they were as serious as lethal ones (on the theory that some benign tumors can progress to malignancy and one cannot divine which, or how many, will do so); and many other, similar decisions.

The compounded effect of these choices is to push the decision boundary in the evaluation of an animal test in the direction of drawing a positive judgment, and this is justified by the "prudent" desire to be on the "safe" side. But, as discussed, we cannot know the effect that this shift of decision boundary will have on the frequency of falsely positive judgments. As a result, we simply don't know if *all* we are doing is detecting more and more weak carcinogens; it could just as well be that the truly dangerous substances are being swamped by falsely positive judgments and that we will as a consequence lose all hope of making discriminant risk decisions. This is not without its ill consequences. For the substances that are being removed from use on such "prudent" grounds are all substances that serve some useful human purpose.

There are indirect ways of getting at the problem of making risk decisions. For example, if the decision framework were excessively biased toward getting positive results, then one would predict that an unexpectedly large proportion of the chemicals would come out positive. This is just what we see. Of 252 chemicals tested and reported by the National Cancer Institute (NCI) and the National Toxicology Program (NTP), 42 percent were judged to be carcinogens in at least one species tested. This high proportion is quite unexpected, because the effort to identify and banish human carcinogens has been based on the belief that these substances are relatively *uncommon*; if a substantial fraction of *all* of the thousands of chemicals one comes into contact with each day is carcinogenic, then this approach would be hopeless.

Of course, the high frequency of positive results in the NCI/NTP series could be explained away by saying that these chemicals had been preselected as likely to be carcinogens in the first place and that NCI/NTP had been so successful in their preliminary divination that about half of their candidates turned out in fact to be carcinogens. This may be correct. But the disconcerting fact is that *we don't know*! It could just as well be that the conditions of conducting animal tests (particularly the high doses used), combined with the decision criteria used for interpreting the results of these tests (chosen largely on the basis of "prudence"), are such as to yield a high proportion of falsely positive judgments. In other words, it could just as well be that in human use, most of the chemicals would not be capable of causing a significant amount of cancer.

Allied to this is the finding that many *normal* constituents of the human diet—such as sugar, Vitamins A and D, pepper, and a mixture of egg yolks and milk—are turning out the be carcino-

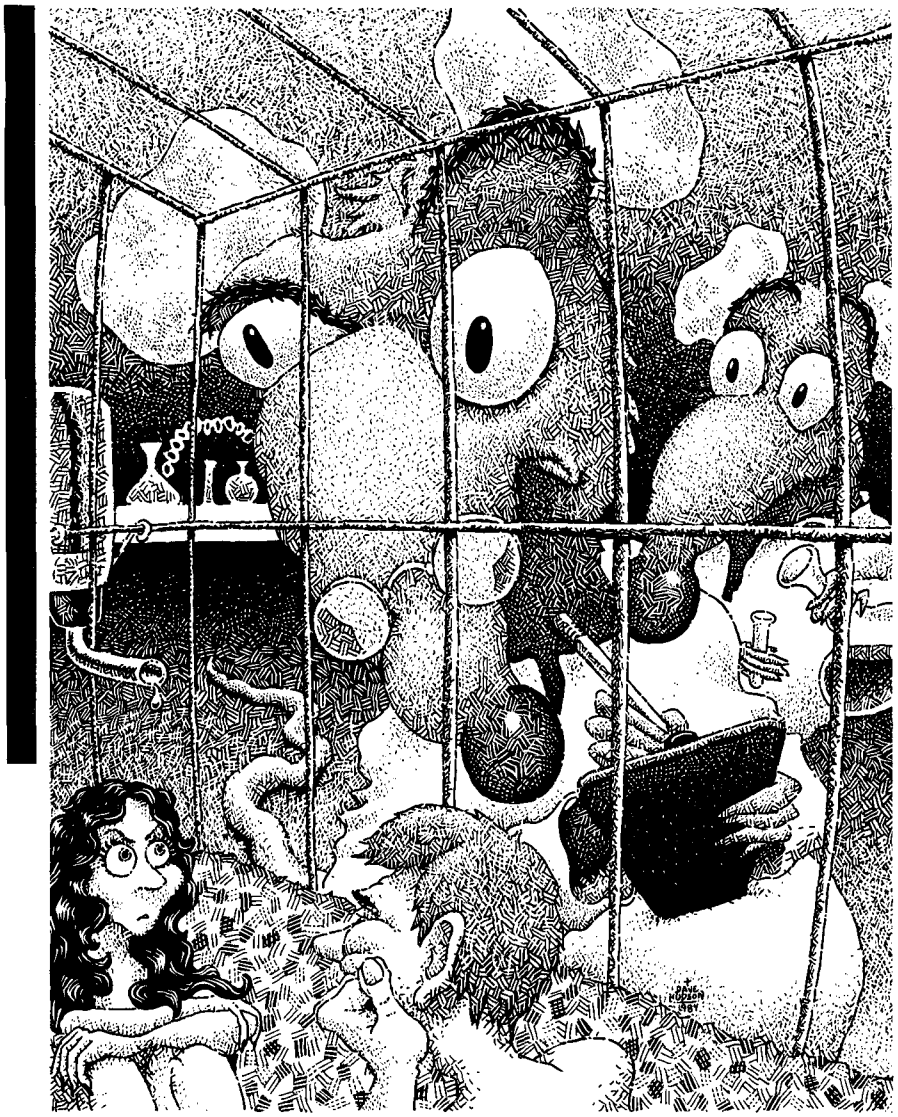


Illustration by Dave Hudson

genic on the basis of at least one animal test. It is not impossible that these animal test results *are* validly implicating these common foods in human cancer. But since such constituents (with the possible exception of pepper) have been part of the human diet for millennia, this would seem to be a very strange conclusion. It seems more likely that experimental conditions (such as dose) and type of species tested are such that these findings don't apply to humans.

A fact making these considerations even more pertinent to the saccharin tests is that no single-generation test of saccharin (where exposure started only after weaning) has been decisively positive; a significant incidence of tumors is only replicably seen in two-generation experimental designs, where the *parent* generation of the test rats is also dosed at the maximum tolerated level, so that exposure starts at *conception.* The predictive difficulty is that we are faced with two conflicting sets of data: the one-generation tests are overwhelmingly negative, while all of the two-generation tests have been positive. Which set should form the basis for inferring human risk?

From a strictly scientific point of view, given available evidence, there is no way to know. Regulators usually resolve this uncertainty by means of "prudence"; they just *assume* that two-generation tests are more sensitive at picking up weak carcinogens. They thus ignore the possibility that by so notching the decision boundary yet another step in the direction of prudence, they may just be raising the frequency of judgments that are actually falsely positive vis-à-vis humans.

Impinging on the matter of predictive validity is the question of whether there exist biochemical singularities in one species of animal that render invalid predictions of carcinogenicity to other species, such as humans. As discussed, we can't directly answer this as concerns predictions from rodents to man. But we can ask how well results with one animal species predicts results for another. If such predictions are pretty good across several species for a given chemical, then one could reasonably argue that the substance is affecting a basic aspect of metabolism that is common to most mammals and hence, it could reasonably be guessed, to humans as well. Many carcinogens show just such behavior: aflatoxin is a carcinogen in mice, rats, fish, ducks, marmosets, tree shrews, and monkeys; 4-aminobiphenyl is a carcinogen in mice, rats, rabbits, and monkeys; asbestos is carcinogenic in mice, rats, hamsters, and rabbits; DES is carcinogenic in rats, hamsters, and dogs. It comes as no great surprise, then, to learn that all of these are also carcinogenic in humans.

But many other animal carcinogens do not show this behavior. Of 190 chemicals tested in the NCI series (tested in rats and mice simultaneously, using similar experimental designs), 54 of the 98 chemicals that were positive in at least one of the test species were positive in *only* one of them. That is, about half of them did not produce cancers in the other species *even* when tested with similar high doses, chronic exposure, and numbers of animals at risk, and when the same set of decision criteria was used to evaluate the results. Considering the taxonomic closeness of these two species and the similar experimental procedures, such a high rate of discordance is surprising, and it suggests that sensitivity of individual species may be stronger than usually assumed. This casts a long doubt on the validity of inferences made about human risk from such animal tests, especially if the predictions are being made to the very different conditions of low-dose exposure (which, as we have seen, is tricky in the extreme), or to a taxonomically widely different species, as humans in fact are.

How often does a chemical that causes cancer in laboratory animals turn out not to cause cancer in humans? No one knows.

Thus, when tests of similar design and statistical thoroughness involving different species disagree, this fact does imply that carcinogenesis cannot be generalized in trying to make a decision about humans. Conversely, concordance among several species strengthens such predictions. The fact that the incidence of bladder tumors in saccharin tests has been high only in *male* rats, never in females tested in parallel, must be seen in this context.

Let us now sum up the animal information about saccharin. It is a carcinogen. However, it is the weakest carcinogen ever detected in an animal test (this is based on the size of the dose needed to induce tumors). The tumors that did develop did not spread, were not lethal, and did not visibly impair the health of the animals (their life spans were normal; the tumors were only detected in microscopic examination after death from natural causes). Further, saccharin's tumor-producing activity is *highly* dose-dependent. Even if one rejects the notion of a "safe dose" in favor of a non-threshold model, the best predictive model projects a risk more than 10,000-fold *smaller* than had earlier been estimated on the assumption of a linear relationship. (And that overestimation itself predicted only one or two thousand cases of bladder cancer per year in the United States.) Moreover, tumors in response to saccharin have been seen in significant numbers only in two-generation tests, the predictive validity of which, in comparison with contradictory one-generation data, has never been established. And carcinogenicity for saccharin has never been demonstrated in any other species than the rat.

Superimposed on all this is the fact that animal tests in general have not been convincingly validated for the purpose of making qualitative human cancer-risk predictions. The frequency of false positives in such predictions is unknown and unmeasureable, but a bothersomely large fraction of chemicals tested under high-dose conditions and evaluated by "prudent" decision criteria is coming out positive. Nor do animal tests have an impressive record of successful qualitative predictions between species even *within* a similar experimental design or to a taxonomically close relative.

All of these considerations point in the same direction: saccharin presents a risk to humans that in all likelihood is negligible, if not nonexistent.

What do available data for humans reveal about saccharin's carcinogenicity? A large number of investigations of various designs have been conducted on artificial sweetener use (saccharin could not usually be distinguished from cyclamate in these studies). Overall, these studies have had persuasively negative results. Two studies do, however, merit special mention.

One was conducted by Canadian researchers and did claim to find, on the basis of a statistically significant but weak result (a shift of only six cases among the several hundred studied would have rendered the result insignificant) a 60 percent elevation of the risk of

bladder cancer among normal male users of artificial sweeteners. This was a startling finding, since up until that time all other studies had been negative.

In an effort to resolve this inconsistency, one of the largest epidemiology studies ever conducted on a food additive was commissioned by the National Cancer Institute in the United States. Some 10 percent of all the new bladder cancer cases in the United States in the year of the study were identified (slightly over 3,000 cases) and matched with some 9,000 controls. If the Canadian claim of a 60 percent increase in risk among men (or women, for that matter) were correct, this much-larger study would certainly be able to detect it with statistical confidence. The study, however, was negative; there was no elevation of risk among typical users of artificial sweeteners.

While invalidating the Canadian study, this result does not, as discussed earlier, prove that saccharin causes no cancer in humans whatever. But it does set an upper bound on the maximum number of such cases that might exist. Were there an excess of bladder cancer cases as large as 3,000 in the United States each year due to the use of artificial sweeteners, then it would in all probability have been detected in this giant study. Not detecting any such excess, therefore, means that if saccharin in its past patterns of use does cause bladder cancer, it does not cause a number significantly larger than about 3,000 cases annually.

So much for what science can tell us. It is within these boundaries that value considerations can be dealt with.

A word or two about saccharin's *benefits* is in order at this point. The salient fact is that there is little or no convincing evidence of an "analytical" sort—that is, accessible to outsiders, such as "experts" and regulators—that any of the health benefits claimed for saccharin actually exist. These benefits include weight reduction or maintenance, management of diabetes, and reduction of tooth decay. It is highly plausible that some such health benefits may exist for some people, but evidence to confirm or refute this is lacking.

It would be a mistake, however, just because of this state of affairs, to *assume* that no such health benefits exist. They might; and because saccharin's cancer risk to humans is at most very, very low (there is *no* uncertainty about this point, since it is based on the epidemiology results), these benefits would not have to be very large to completely offset saccharin's risks. A few thousand deaths avoided per year for all reasons combined (diabetic crises avoided, heart attacks avoided because of successful weight management, cancer avoided because of obesity reduction—yes, obesity per se is a risk factor predisposing one to develop cancer) would be sufficient for this purpose. It is difficult even to imagine in principle how one might design a study that could decisively rule out the possibility that health benefits of this small magnitude exist as a result of the ways that diet products are currently consumed. For this reason, the strategy of using prudence as a decision rule for dealing with uncertainty fails in this instance; faced with the choice to ban saccharin or not, a prudent regulator could not know which alternative would in fact favor public safety. As a matter of fact, the benefits could be quite a bit larger than just a few thousand lives saved each year, because there aren't any studies of benefits of sufficient rigor to set an upper bound on the size of the possible benefits. On the other hand, since the risks are no more than a few thousand cases of bladder cancer, prudence might well come down on the side favoring saccharin's availability.

Faced with the choice to ban saccharin or not, a prudent regulator could not know which alternative would favor public safety.

There is a series of considerations that lead, irresistibly in our opinion, to a specific policy recommendation about saccharin. It is that individuals be allowed to make their own decisions about saccharin use.

The first consideration is that this is not a situation similar to air pollution or acid rain or the contamination of the land with pesticides, where externalities—side effects imposed on unwilling recipients—prevent individuals from taking independent action to control their own fates. Instead, it is predominantly a *user-risk* situation, where users are generally the only persons exposed and can choose whether or not to take the risk. (There are a few exceptions to this generalization that will be dealt with below).

Second, there are, at least hypothetically (because the existence of *any* risks or benefits is speculative), great deviations from the average in the risk-benefit circumstances of individuals. Pregnant and lactating women may run an elevated risk from saccharin, since their fetuses or newborn infants might be more sensitive to the effects of saccharin. Children in general might be at elevated risk, because they have such a large life expectancy ahead that an induced cancer would have ample time to develop. By the same token, older people would probably have a reduced risk, since their remaining life expectancy is sufficiently short that a cancer induced by saccharin would have little chance to become manifest. Adult women probably have a less-than-average risk, because *all* of the rat tests to date have found no significant tumor incidence for females, and all of the epidemiology studies (including the Canadian investigation) have found no measurable risk to normal women users.

Variation on the benefit side is likely as well. People who are obese are at elevated risk for diabetes, heart disease, cancer, and other conditions; so they are in a position to derive more benefit from using saccharin than would a person of normal weight. Diabetics, too, are in a position to benefit more than the average. And since there is a tendency for people to gain weight and develop diabetes concurrently as they get older, their potential for reaping a health benefit increases in step with their decreasing vulnerability (because of shortening life expectancy) to its risks.

This variability in individual circumstances makes it difficult to see how a ban on saccharin's availability could, in its uniformity, be superior to a policy that makes allowance for such variations. One could in principle try to take a "utilitarian" position—adding up all the health benefits and risks to derive an overall sum for the society as a whole, and, depending on whether the sum is positive or negative, deciding whether to ban or not. But this suffers from the distributional flaw, which has been exhaustively discussed in the political science and philosophical literature, that *one* person's health benefits get needlessly sacrificed to save *someone else* from risk. Such sacrifices are wholly unnecessary in a situation where the risks and the benefits are born predominantly by the same individual. To be blunt about it, a person who is in a position to benefit from saccharin and is coercively prevented from

obtaining these benefits in a peaceful manner *has his rights violated*—precisely because this is primarily a user-risk situation, and so his obtaining these benefits does not impose harm on others.

The third consideration leading to a user-decides policy is that the knowledge of these particular, individuated risk-benefit circumstances necessarily exists in a dispersed form across the social order. There is no hope of gathering all knowledge of local risk-benefit variations—which are specific for each individual—into a central decisionmaking office. Not only the knowledge is dispersed, but so is the motivation to use it optimally. And, as Austrian school economist and political thinker F. A. Hayek argues in a parallel context, the best way to assure that this necessarily dispersed knowledge is effectively used, rather than just lost, is to decentralize the decisionmaking authority out to where the knowledge of local circumstances exists. In this case, that means letting each person make the decision about the use of saccharin for himself.

The fourth consideration is the political philosophy that underlies the Declaration of Independence and our Constitution. Suffice it to say that, based on these documents, citizens' self-autonomy has been the norm in large areas of civic life. Customarily, individuals have been left to decide what risks they are willing to take. Why treat saccharin in a manner that deviates from that custom or establishes dramatic new precedents?

The discussion to this point establishes that saccharin does not have any distinguishing features sufficient to justify treating it in an unusual way. Quantitatively, its risks—at most, about 3,000 cases of cancer a year—are absolutely minor compared to other risks that we freely permit people to decide for themselves. We let people drive cars, climb mountains, ride motorcycles, live in earthquake zones, and so on; and if risk decisions of such magnitude can be entrusted to them, there is no reason to make an exception for saccharin. Qualitatively, the same is true, too. The salient qualitative feature of saccharin's hypothesized risk is that it is cancer. But we freely allow people to make decisions for themselves about smoking, drinking, sunning themselves, when to have their first child, the number of their sexual partners, and how obese they become—all of which are proven risk factors for cancer. And given the fact that we permit people to make decisions for themselves about *proven* factors of such magnitude, there is no reason for treating saccharin, whose risk to humans is entirely hypothetical, differently.

The fifth consideration, an extension of the previous one, deals with the exceptions to the general rule that the costs and benefits in this case are virtually all borne by the same person. Certain exceptions are obvious: pregnant or lactating women may influence a fetus or infant by their decision to use saccharin. And other groups in society, such as children, orphans, or the senile elderly have decisions made for them by others. Again, however, traditional ways to delegate decisionmaking already exist to cope with these situations, and there is nothing about the hypothesized risk of saccharin that would call for any change in these customs. Primary responsibility for a fetus's well-being has always been delegated to the woman carrying it; we allow her ultimately to decide whether to smoke, drink, take drugs (medicinal and otherwise), wrestle, ride horses, jog, stay up late at night, and so on. Seen against this background, there is no basis not to permit her to make the final decision about saccharin, too. Similarly for lactating mothers. Decisions concerning older children, again, have been traditionally, in the main, delegated to their parents. And for the senile, or orphans, decisionmaking has customarily been delegated to guardians, relatives, doctors, nursing-home administrators, and so on; nothing now known about saccharin's risks suggest the need for any change in these arrangements.

The sixth consideration is that the argument for locating ultimate decisionmaking power concerning this issue in the individual does *not* depend on the assumption that he will always make "informed" risk-benefit judgments of this "complex" issue. What, after all, is complex about it? *Whatever* decision an individual makes regarding saccharin, he cannot hurt himself by much; the worst he could do to himself is absolutely trivial compared to many other decisions he has to make in the course of a day. Rules of thumb, whims, habits, folklore, and so on, are quite likely to lead to decisions about saccharin use that won't be demonstrably inferior to "informed" decisions in terms of effects on the individual. And this means that we don't have to presuppose vast amounts of erudition or reasoning skill on the part of the decisionmakers. Any citizen able to lead an independent life can be presumed capable of deciding whether or not to use saccharin. We don't require people to prove that they can make "informed" decisions before we let them choose a spouse, occupation, doctor, religion, or politician, nor to buy insurance or take out a mortgage, so there is no reason to get pompous about letting them make the decision to drink diet pop.

Seventh, precisely because the decision need not be well-informed, there seems to be no need for exaggerated or special methods for imparting information to consumers about the risks and benefits of saccharin—as long as the risks remain as small as now is the case. The existing channels for spreading new information—consumer groups, the media, etc.—seem adequate to impart a sufficient amount of knowledge for this minor decision.

Eighth, there is an important dimension to this matter that transcends the issue of whether or not saccharin poses a serious health risk. Is it the proper role of government ever to regulate such substances, whatever risks their use might pose for particular individuals? Such regulatory policies assume that the judgment of regulators and "experts" ought to prevail over the choices of individuals, who are deemed too ill-informed or too foolhardy to make wise decisions about such matters.

One could rebut this assumption by invoking the argument that only individuals (perhaps in consultation with their doctors, family, etc.) have sufficient knowledge of their particular circumstances to assess the risks and benefits of a given course of action. But the issue goes beyond whether individuals are capable of making wise decisions. Ought governments to *prevent* individuals from making bad decisions or from taking risks? Is it the government's role to protect individuals from themselves?

In the tradition of individual rights and limited government, it is the business of government to protect individuals from being harmed by others. It is not the business of government to prevent individuals from pursuing actions that may result in harms only to themselves. Such restrictions erode freedom of choice and individual responsibility, essential ingredients of a free society. ◻

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BIPARTISAN B·A·L·O·N·E·Y

An industrial policy will mean wise regulation by independent experts? History tells otherwise.

BY MARVIN N. OLASKY

Some of Gary Hart's "new ideas," like the former Democratic presidential candidate himself, seem on their way to becoming footnotes in American political history. But others, like the establishment of a "grand coalition" of economic and political leaders—representing both major political parties—who would unite to create greater governmental economic authority, are on display in this year's Democratic Party platform.

While many eyes are on vice-presidential nominee Geraldine Ferraro—the campaign season's big attention-getter—the party of the people is demanding appointment of an "economic cooperative council" and endorsing "industrial strategies to create a cooperative partnership of labor, capital and management." And the House Banking Committee already has endorsed legislation to create an economic council, which would include businessmen, labor leaders, and academicians.

The fashionable buzzword describing the notion of a single governmental economic authority had been, of course, "national industrial policy." Now, as the election campaigns gear up, Hart's "grand coalition" may become a front-runner among the linguistic candidates to popularize this latest version of central planning. But while the phrases in which the idea is couched may be of recent vintage, the idea itself, like many others in all the election-year rhetoric, is actually quite old—at least as old as Plato's *Republic*, with its ideal of "philosopher kings."

The reasons behind the popularity of such a Platonic concept in this notably Aristotelian age become more apparent if we compare the "grand coalition" idea not only to its predecessors among the ancient Greeks, but to its American ancestors, as well. After all, the *United States Government Manual* lists 57 such small-scale "grand coalitions"—bipartisan boards designed to oversee entire industries or activities and remove their particular attempts to pursue happiness from the supposedly dreary intervention of the populace and its elected representatives. These baby-grand coalitions are called "independent agencies."

Their charters vary widely and include everything from the trivia of the American Battle Monuments Commission to the judgments of the Federal Trade Commission or the Securities and Exchange Commission, which can make or break companies. But this bureaucratic Heinz 57 has two common denominators. First, all of these agencies are outside the ordinary executive-branch chain of command used to manage the Cabinet-level departments (State, Defense, etc.). Second, all of these agencies are more or less patterned after the first major independent agency, the Interstate Commerce Commission. The ICC was created almost 100 years ago, largely upon the suggestions of early public-relations "experts" whose views were similar in some ways to those of our latter-day speechwriters.

To understand the similarities, we need a quick look at the political economy of a century ago. The 1880s are sometimes looked back upon as a time of great national optimism and excitement concerning the industrial and mechanical advances that were becoming evident almost every year. Such reminiscences are correct, but economic advance also was accompanied by social pressure—and pressure created worry about the growth of the first genuinely national business enterprises. There especially was concern about the development of the "steel horses" and steel lines—the railroads—which provided the transportation base for America's rapid economic growth.

Into this thicket of worry swashbuckled the railroad entrepreneurs of the time, fulfilling societal needs by laying more track faster than anyone would have imagined possible a few years before and, through their efficiency, opening up new lands for small farmers and prairie immigrants. But they also raised concerns about a possible centralization of economic power. The railroad industry had grown fast, going from 30,000 miles of track during the Civil War to 141,000 miles in 1882. With such a great leap noticeable to all, the railroads quickly became the focal point for concern about rapid industrialization and the new organizational forms that accompanied it.

Naturally, the political and economic powers of the time attempted to make the new economic structure work to their advantage by obtaining special privileges from the state. For instance, some Chicago merchants became irate because they could not get special rates from the Chicago, Burlington and Northern line. Chicago businessman William H. Beebe told a Senate investigating committee that he did "not lean very much toward paternal legislation on the part of the Government," but felt that *in this case*, "regulation by a commission or by some other governmental agency would be beneficial." Similarly, when Pittsburgh merchants were unable to get a special deal from the railroads, the Pittsburgh Chamber of Commerce called for federal rail regulation.

Political pressure from those generally favoring statist solutions also grew during the 1880s. As labor upheavals resonated through the decade, with some demonstrations leading to violence, there were claims that the American flag was unraveling stripe by stripe, and only strong governmental hands could sew it together.

The initial response of railroad-industry leaders was not a principled defense of their business, but a series of not-so-subtle attempts to swing public sentiment to their side. William K. Acker-

man, president of Illinois Central, wrote to a colleague that increasing public attacks made it necessary for industry leaders to "manufacture public opinion," and he set about doing so by commissioning books and articles favorable to the rail industry, which would be published as independent pieces of analysis and scholarship. Political IOUs also were called in.

Other industry leaders provided free passes to newspapermen in return for favorable articles. Henry Ledyard, president of Michigan Central, noted that "the newspapers do, to a greater or lesser extent, mold public opinion," and he agreed with Norfolk and Western vice-president Frederick J. Kimball that "giving passes to newspapermen is about the cheapest form of advertising we can get."

Free passes were also given to many politicians, clergymen, and educators. But the strategy backfired. On some railroads, one critic complained, two-thirds of the passengers were paying higher rates so that one-third could ride free. The free-pass strategy mainly allowed railroad-industry critics to add to their list of complaints the industry's attempt to "bribe" the real or potential opposition.

A second railroad-industry strategy emerged: Do not fight the idea of government control over the railroad industry, but lobby the state legislatures to get favorable terms. This, however, turned out to be the worst of all possible worlds. Expressing his scorn of this strategy, Illinois Central president William Ackerman told his company treasurer that Illinois state senators "pass their nights in rollicking, will drink all you offer them, and make you any amount of wild promises, but their actions...give lie to the promise. In short, they are utterly unreliable."

With these false starts, the political mood became increasingly frustrating for the railroad executives. By 1886, the House of Representatives had passed a bill favoring legislative oversight of the railroads, and the Senate was holding hearings on rail regulation. Railroad executives were in desperate need of a new public-relations strategy. They found the basis for one in a "new idea" for governance then being discussed in academic and political circles and tried out in some of the states: the concept of a bipartisan governing council

The establishment of governmental philosopher-kings actually leads to the creation of a vast new domain for politics.

of wise men.

Charles Francis Adams, Jr., both a railroad executive and a summer scholar, was among those to argue that increasing complexities of industrial technology made necessary "a new phase of representative government"—the regulatory commission. Rapid change, according to Adams, required control by a body of dispassionate experts who would use "statistics" rather than emotions or political considerations to harmonize "the interests of the community" with the interests of business.

Many politicians also liked the idea of philosopher-kings in suits and ties. For instance, Rep. Robert Hitt of Illinois pointed out in 1886 that the railroad industry is "the most complex business known to our civilization and the most extensive, involving the largest amount of property and the greatest number of individual interests in the whole world." Huge enterprises of this type, according to Hitt, could best be controlled by "five wise, able, experienced men of reputation, commanding general confidence."

There had been proposals of this sort before. In the 1870s one such bill even passed the House of Representatives. Rep. G. W. McCrary's bill provided for the creation of a nine-person commission to investigate and prepare schedules of maximum railroad rates, watch for violations of new regulations, and enforce those rules through legal suits. But at the time, the railroad industry opposed the commission form on grounds of political principle, believing that private enterprise should remain private, and had enough practical savvy to sideline equivalent measures proposed in the Senate.

By the mid-1880s, however, railroad executives were ready to embrace the commission form as an alternative to popular rule. George Blanchard of the Erie line wrote in the *Chicago Railway Review* that "a national railway commission" could give "the railways conservative protection against radical assaults." Charles Perkins of the Chicago, Burlington & Quincy threw in the towel and wrote, "The public *will* regulate us to some extent—and we must make up our minds to it." Henry B. Ledyard of the Michigan Central stressed the necessity of having "commissioners to stand between the railroad and the public." Railroad reporter William P. Shinn summed up the change in an 1886 *Railroad Review* article: "The leading railroad companies, which formerly (and as I then thought, unwisely) opposed such a commission, are now almost without an exception in its favor...because it places between the companies and the public a responsible organization to which both will acquiesce."

Some senators had serious concerns about the constitutional dangers of establishing an independent commission to which all were expected to "acquiesce." Sen. John T. Morgan of Alabama argued that the 1886 bill to establish an "Interstate Commerce Commission" for railroad regulation gave an independent agency "powers, a large admixture of power, quite a voluminous array of powers....It is the first bill I have ever known to be brought into the Senate... where the authors of it were not willing to enter into a definition as to whether the powers they conferred by the bill" were executive, legislative, or judicial. Sen. E. C. Walthall of Mississippi opposed establishment of the ICC because of "the fullness of its powers, the disastrous consequences of its mistakes, and the dangers and temptations incident to the position of its members." Sen. George F. Edmunds of Vermont similarly argued that the commissioners would have too much discretionary power.

In the House of Representatives, rhetoric was even harsher. Rep. John H. Reagan of Texas argued that "the American people...are not accustomed to the administration of the civil law through bureau orders. This system belongs in fact to despotic governments, not to free republics." Rep. Jacob Campbell of Ohio warned that "this commission, which may be ignorant, willful, or corrupt, [will be] all the while responsible to nobody for their actions." But railroad interests supported the bill, arguing that railroads should be controlled by a government agency "removed from politics," and enough of the wavering representatives were convinced to back the bill. The Interstate Commerce Commission, it was determined, would be bipartisan, with nearly equal representation from each major party, and would be composed of the best and the brightest

philosopher-kings within earshot. At the least, it was believed, this baby-grand coalition could make the trains run on time.

Based on that rationale, the House and Senate eventually agreed on a bill to establish the commission. On February 4, 1887, President Grover Cleveland signed into law the Interstate Commerce Act. The act set a precedent that Congress has regularly followed throughout the past century: when in doubt about either the equity of market decisions or the efficiency of political tugging, go for the baby-grand coalition. For instance, when questions concerning marketing practices arose in the years preceding the formation of the Federal Trade Commission in 1914, Sen. F. T. Newlands argued that successful resolution of problems could result from the deliberations of a bipartisan group of experts with "a very comprehensive knowledge of the practical economic and legal aspects of the whole field of industry of the country, and exceptional experience, training, and judgment."

The idea that a few wise men could best judge the interests of all has also been a popular one among the regulatory commissioners themselves. For example, Federal Communications Commission members once noted: "As guardians of the public interest, we are entrusted with a wide variety of discretionary authority and under that authority [we] bring to bear upon the problems an expert judgment from our analysis of the total situation as to just where the public interest lies."

Ironically, though, a variety of scholars have found that such claims, and the more-general claims that the commission process leads to wiser decisionmaking "divorced from politics," have little basis. For example, historian G. Cullom Davis studied the transformation of the Federal Trade Commission from 1914 to 1929, and found that the decisions of the FTC during those years generally followed the election returns. George E. Roberts, vice-president of National City Bank, writing in a 1924 issue of *Nation's Business*, noted that findings of the "independent" agencies, "if opposed to the popular view, are overwhelmed by a storm of protest and clamor; and it is exceedingly difficult for public officials to withstand the pressure of public criticism."

In a 1961 article appearing in *Law and Contemporary Problems*, political scientist Mark Massel concluded that in commissions, "both policy formulation and execution are dependent on political outlook and pressures." Economist Sam Peltzman, of the University of Chicago, contended in a 1976 *Journal of Law and Economics* article that agency officials, charged to take into account the interests and political strengths of a variety of competing groups, act almost the same as they would if vote-gathering considerations impinged directly on their proceedings. And government-affairs expert Jeremy Rabkin, in a 1979 article entitled "The Dues of Due Process at the FTC" published in the American Enterprise Institute's *Regulation* magazine, concluded: "Commissioners must continually make difficult judgments about how much the Congress—or the public—expects in different areas.... Even the determination that commissioners must reach in formal proceedings are often closer to those considered in legislative debate than in the typical courtroom proceeding."

What both scholars and innocent bystanders have found repeatedly is that the independent commission form results in an extension of the governmental process into areas that once were private. The establishment of governmental philosopher-kings, under the guise of removing economic questions from politics, actually leads to the creation of a vast new domain for politics.

Yet after a century of failed experimentation with baby-grand coalitions, we are facing the next step—the development of a *grand* coalition. Some wish to take such a step because they persist in arguing, against the evidence, that baby-grand coalitions have helped more than they have hurt. The more sophisticated, however, claim that a grand coalition is needed precisely because baby-grand coalitions working (to some extent) independently of one another cannot adequately consider all the elements and effects of their actions.

Up to now, the United States has been spared the necessity of producing empirical evidence to show the disastrous effects of putting immense power in the hands of one individual or group commissioned to take into account *everything* going on in society. We have never had such a grand coalition ruling over us, so its proponents are indeed challenging us to proceed to starry realms where the American people have not gone before. But countries such as the Soviet Union *have* had experience with experiments of similar or greater grandeur. And the sad results are there for all to observe.

Moreover, scholars have developed powerful theoretical arguments explaining *why* political attempts to procure economic harmony evenutally tend to produce the peace of a slave camp. For instance, the Nobel Prize-winning economist Friedrich Hayek, in a chapter of his classic work *The Road to Serfdom* entitled "Why the Worst Get on Top," explains that central planners first find it impossible to satisfy the wishes of people with widely divergent plans and beliefs, then find it necessary to appeal to lowest-common-denominator instincts—such as envy—and must eventually turn rule over to ruthless demagogues, who can keep the pot of envy bubbling.

There is an alternative to the grand-coalition method of fighting disharmony. As Wilhelm Röpke put it in his book *Economics of the Free Society*, "Our economic system can remain viable only if disharmony is redressed by effective and continuous competition." Wherever producers and consumers, with their many and varied skills and interests, have been free to develop the temporary coalitions that we call contracts, they have proven the wisdom of diminishing government power and promoting truly private enterprise.

But the illogical tendency of some is to imitate those Marxists who, when they found socialism in one country unworkable, demanded the internationalization of failure. Since the baby-grand coalition to rule one industry has not been effective, the grand coalitionists argue, we must establish a single central authority to oversee *all* industries. So the public-relations machinery of those who oppose free enterprise is now gearing up to proclaim the virtues of "public-private partnerships," bipartisan decision-making on economic and political matters, and creation of "national industrial policy boards."

The decrepitude of today's US railroad industry has many causes, but one of them is clearly government control. Indeed, it was largely the inception of baby-grand coalitions like the Interstate Commerce Commission that initiated the process of choking private enterprise with government rules and regulations. And what the commissions have individually done to particular industries, a "grand coalition" would do to the political economy generally. ◻

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CLOAKING *the* STATE'S DAGGER

The history of political thought is a history of one euphemism after another to disguise the naked power of the state.

By Robert Nisbet

What we call political philosophy is so overladen in the West with euphemism, panegyric, and idealization that anyone might be forgiven for occasionally failing to remember just what this philosophy's true subject is: the political state, unique among major institutions in its claim of absolute power over human lives. Euphemisms for the state drawn from kinship, religion, nature, reason, mechanics, biology, the people, and other essentially nonpolitical sources have been ascendant for so long in Western history that it is downright difficult to keep in mind that the state's origin and essential function is, as philosopher David Hume pointed out in the 18th century, in and of force—above all, military force. What procreation is to kinship and propitiation of gods is to religion, monopolization of power is to the state.

There is no political order known to us in history, from ancient Egypt to contemporary Israel, that has not originated in war, its claimed sovereignty but an extension and ramification of what the Romans called the *imperium*, absolute military command. War is the origin of the state and, in Randolph Bourne's familiar phrasing, is the health of the state. Modern war, grounded as it usually is in the kinds of political and moral ideals, or claimed ideals, which can justify almost limitless expansion of the state at the expense of society, is very healthful indeed to any form of state.

The essence of the state, then, is its unique possession of sovereignty—absolute and unconditional power over all individuals and their associations and

possessions within a given area. And at the basis of the state's sovereignty is the contingent power to use the military to compel obedience to its rule. This is as true of democratic as of despotic states.

The most democratic of contemporary states claims a monopoly of power within its borders, exclusive possession of and control over the military and police, and the right to declare war and peace, to conscript life and appropriate income and property, to levy taxes, to supervise the family and even, when necessary, the church, to grant selective entitlements, to administer justice, and to define crime and set punishment. The political state is the only association whose freedom to act cannot be limited by the state. With all respect to differences among types of government, there is not, in strict theory, any difference between the powers available to the democratic and to the totalitarian state. We may pride ourselves in the democracies on bills or other expressions of individual rights against the state, but in fact they are rights against a given government and in history and practice have been obliterated or sharply diminished when deemed necessary, as in the United States and other Western-democratic powers in the two world wars.

It is not strange, then, that the history of the state should be accompanied by the rich embroidery of euphemism. Any institution born of war, that thrives in war, and that claims unique absoluteness of power over all individuals within its borders requires all the symbolic assistance it can get. Such assistance has for a very long time been the offering of the political clerisy. Like the church, the state must have its defenders, rationalizers, and justifiers, its scribes and prophets. Also like the church, the state must have its dogmas and rituals, its feast days, its saints and martyrs, and its sacred objects.

Family

The oldest of euphemisms for the state's distinctive military power is drawn from the realm of kinship, which is natural, given the age and universality of family, clan, and kindred in mankind's history. Thus early kings or chiefs might claim themselves patriarchs. Recurrently in history, kings have been rulers of *peoples* rather than territories; they were this in the early Middle Ages. *King* is a derivative of Old English *cyng*, meaning kinship.

The patriarchal image of the state was nourished by a good deal of theology during the Middle Ages; and feudalism itself, as we find it at its height, was an ingenious fusion of military substance and kinship symbol. Patriarchalism survived the decline of medieval society, its enduring appeal well illustrated in the modern world by the popularity everywhere of such words and phrases as *fatherland, mother country, sister-nations*, and the like. Mario Cuomo, the keynote speaker at the 1984 Democratic convention, used the word *family* to describe the American nation just under two dozen times. It was with a keen sense of the antiquity of kinship metaphors in politics that George Orwell chose to give his horrifying totalitarian government the label of Big Brother. But in many ways the most telling example of the power of a euphemism in thought is the argument in political and social philosophy—extending from Aristotle to modern political ethnology—that the state is but the natural development through time of kinship. It assuredly is not, but the myth appears to be ineradicable by now.

Any institution born of war, that thrives in war, and that claims unique absoluteness of power over all individuals within its borders requires all the symbolic assistance it can get.

Religion

Religion is second only to family in its fecundity of euphemism for the war-born state. Prepolitical man was as saturated by religious as by kinship influences upon his thinking. Almost as hoary as the patriarch is the prophet in mankind's annals. How better to give root to a military conqueror's acceptance by the conquered than to sanctify, even deify, him; to make him at worst an indispensable voice of the gods, at best one of the gods himself. Egyptian kings were addressed in rescript and inscription as Aton, Horus, Re, and so on in order to give expression to their claimed identities as sun-gods.

The speed with which passage from the human to the divine could occur, and much later than the age of Egyptian pharoahs, is well illustrated by the careers of Alexander in the Hellenistic world and of Octavian, conqueror of Mark Antony at Actium, in the Roman. The latter was obliged by still-respected republican tradition to be more subtle than had been Alexander, but even so not a great deal of time passed before Octavian became officially *Imperator Caesar divi filus Augustus*, a title that artfully fused military, divine, and kinship.

Christianity was born in a setting of emperor-worship, and from the beginning its teachers and missionaries sought to nullify as far as possible the influence of the imperial religion upon Christian minds. But taking the long history of Christianity into account, it is impossible to overlook the readiness with which Christian faith and dogma could include acceptance of the sacredness of royal office if not personage. The crowning of Charlemagne by the Pope as *holy* Roman emperor suggests first the claim of suzerainty by church over state, including power of investiture of king, but second the allowance by church of sacred character into the kingship. Even the most powerful and assertive of popes in the Middle Ages did not deny to kingships their holy, if derivative, status.

It was, however, in the Reformation that the unqualified divinity of kings was once again proclaimed in the West. As Luther, Calvin, and others saw the matter, elevation of kings to divine status in their rule—directly divine status, unmediated by church—was as powerful a blow as could be struck at the hated and feared papacy. We tend to associate James I of England most prominently with the Divine Right of Kings because of his early-manifest fascination with the theology of the subject. It was under Charles I, though, in 1640, that what must be the all-time high in English belief in royal divinity was expressed. The statement begins: "The most high and sacred order of kings is of Divine Right, being the ordinance of God Himself, founded in the Prime laws of nature, and clearly established by express texts both of the Old and New Testaments."

Despite the numerous rationalist criticisms to which the divine-right panegyric was subjected in the next two centuries, it survived healthily. It was the influential German philosopher Hegel who declared the state—with the Prussian state foremost in mind—"the march of God on earth." And even when the German political idealists chose to retreat God to the background, obvious surrogates for God abounded: Dialectic, World-Spirit, and so on.

Political euphemisms have by no means been confined to patriarchal or

religious views of the state. The kind of rationalism that began to flourish in the 17th century is rich in euphemisms. Some of the more influential are: *machine, organism, general will, popular sovereignty, community,* and *welfare.*

Machine & Organism

To liken anything to either machine or organism was a favorite occupation of 17th- and 18th-century philosophers, and it would have been extraordinary had the political clerisy not seized upon both of these euphemisms as means to advance understanding and acceptance of the political state. The organic could be illuminated by analogy to one or other of the mechanical pumps which in the 17th century dotted the landscape, especially in England; and the social and political could be explained by the organic or the mechanical or, as in the case of Thomas Hobbes, both.

How could the "social security" system have ever reached its eminence if it had been called in the beginning something so mercilessly exact as "state charity"?

In his *Leviathan*, Hobbes first abjures the use of metaphor in scientific writing (what he refers to as "demonstration"), but his own ears were deaf to his warning. Metaphor abounds in Hobbes's political writings. In the original edition of *Leviathan* there is a frontispiece of a giant human being, his body made up of miniscule human beings. Hobbes is of course laying the ground dramatically for his demonstrations throughout the book that the state is at once organism and machine. The principles of statics and dynamics, so highly visible in the natural philosophy of the age, are seized upon with avidity by Hobbes in his explanation of political process. The state is, just like the machine, an artificial body, one governed by its inherent statics and dynamics. There is an "artificial soul" that gives "life and motion to the body." Human ingenuity has created "engines that move themselves as doth a watch." What is the heart but "a spring; and the nerves but so many strings; and the joints but so many wheels, giving motion to the whole body."

The state, like the human body, can suffer malfunctions as the consequence of foreign substances introduced. Thus, for Hobbes such corporate bodies as the corporations of his day are likened to "worms in the entrails of natural man." Intermediate groups are declared to be for the most part "little worms which the physicians call ascarides." Undue conflict in government can induce a "pleurisy" that breeds "stiches" and other pains. Hobbes's special form of naturalism scored on both his physical and organic comparisons; and in his mind the physical and organic were really one, for what was the organism but a divinely constructed machine? Man could do no less in the state—to make an organism directed by the laws of mechanics.

In John Locke, too, the impress of the physical sciences is very evident. The state is at bottom "one body politic" with the capacity to move as one body under the direction of a "soul" that gives life to human society. When the Legislative (the political government) is "dissolved," "dissolution and death" must follow. From Locke there is a straight line to the writings of the *philosophes* in France, so many of whom employed the figures of machine and organism to underscore belief that almost identical processes are found in the state and the human body. On such analogies and implicit laudations, modern political science was founded.

All the primordial militarism of the first states in history was nakedly displayed in the Great War, but few saw nakedness; only robes of divinity.

Social Compact

The metaphor of a contract, or compact, among individuals as source and rationalization of the political state was not born in the 17th century, but it reached its maximum expression then in the history of ideas. The idea of contract had been made a popular one by the revival of Roman law, in which contract is given prominent place in civil codes; and the general spread of economic enterprise from the 16th century on could only popularize among the masses the notion of a vindicating role played by contract applied to almost any relationship.

For philosophers and political intellectuals alike, the idea of contract was mesmerizing. The ugly reality of political-military power in dominance over multitudes could be transmuted into a relationship among individuals that, like any bona fide economic agreement, is simply a free contractual relationship among assenting, willing individuals. It really did not matter whether the social contract was believed to have historical reality at some remote time in the past or whether it was more of a spirit, tacit but pervasive, in a political population. All that mattered was that in theory there be a justification for the absolute state that could render the divine-right or patriarchal theory obsolete.

Natural law was a perfect host for the maturation of the euphemism of contract. In the 17th century, substances were deemed of greater reality than relationships. Man was the primary substance; his social relationships with others represented by traditional institutions were insubstantial, shadowy, mere reflections cast by individuals. For reality, one must begin with the individual; with his drives, his passions, and his reason. One must also postulate, as physical scientists did, some beginning void, some condition of nature in which nothing but man, solid man, existed.

For Hobbes, this state of nature was dreadful, a place of unceasing war, with life "solitary, poor, nasty, brutish and short." He pointed to the Indians of North America as a contemporary instance of what all mankind had once known. This is amusing, for the Indians Hobbes specifically referred to were those of the Atlantic coastal area, most of them in the great Iroquois League, well used to political institutions and to frequent war. However nasty and poor their lives may have been, it would have made more sense to charge this to the political state than to any prepolitical condition of nature. It doesn't matter. The social contract for Hobbes is the *vis creatrix* by which the absolute state, Leviathan, came into being. Awful as its power is, life within it is vastly to be preferred to the even more awful state of nature. Every civil war, every rebellion, even every criminal individual act, is, Hobbes tells us, an eruption, and a dreadful

reminder of the natural condition of man. It was by contract that Leviathan was brought into existence, and it is by contract that under no circumstances may its absolute power ever be challenged.

This was too much for other natural-law philosophers of the century, Locke foremost among them. Yes, an original state of nature in which men had freedoms, and yes, a contract by which natural freedoms were incorporated in the state, but not with the result that such freedoms would be destroyed. Instead, the natural freedoms would be converted into civil freedoms and remain essentially intact after the contract had been made; indeed, they would be crucial elements *of the contract.* The contract, Locke declared (years before the Revolution of 1688 which so often is still mistakenly thought to have been Locke's prime inspiration) holds the sovereign as well as the subjects accountable, and if the day comes when the sovereign fails to protect individuals' lawful rights, especially the right of property, popular revolt is justified. In fact, it is not really revolt by the people; for whatever there had been to revolt against was destroyed by the sovereign, by the sovereign's prior flouting of the terms of the contract, thus unilaterally ending it and thereby opening the way to the establishment of a new and once again legitimate contract.

We may think of the metaphor of contract as simply a conceit of the 17th and 18th centuries, a plaything that was dropped by philosophers at the end of the Enlightenment. But it is for intellectuals too beguiling a figure not to surface from time to time. The much-lauded work of a decade ago by Harvard University philosophy professor John Rawls, *A Theory of Justice*, is sufficient evidence of that statement. What Rawls calls *his* state of nature is "the original position" within which imaginary individuals exist behind "the veil of ignorance." Our minds are directed to a hypothetical group of human beings so anterior to culture (with all its in-built prejudices) that they are ignorant of name, origin, social status, knowledge of good and evil, or even intelligence and temperament. Such beings exist, for Rawls's purposes, in an "original position" that is for all the world like a 17th-century state of nature. And just as his predecessors fashioned states of nature to accord with their respective preferences for government, so does Rawls fashion his "original condition" and his "veil of ignorance" to accord with his unambiguous desire to see equality of condition the law of the land as a result of a social contract devised behind that veil.

The People

Very probably the most fateful concept of the late 18th century in politics was "the people." Not the numerical aggregate of all who lived within a given set of boundaries, for this could include rabble on the one hand and tyrants and exploiters on the other. Rather, those individuals who could free their minds of sectarian prejudices and loyalties, who could in a rational way make their individual ways to comprehension of the general good and who acted virtuously in political matters—these were "the people," properly understood. If government were based in them, it would be inherently incapable of tyranny, for the people would never tyrannize itself.

Very probably the most fateful concept of the late 18th century in politics was "the people."

Jean-Jacques Rousseau's momentous idea of the general will epitomized perfectly this vision of the people in contrast to a mere multitude. The vision has made its way uninterruptedly through 19th-century ideas of plebiscitary dictatorship to 20th-century totalitarianisms. None of the latter would use *totalitarian* as a label. For that matter even *communism* tends to be eschewed in favor of, say, *people's democratic republic.*

Rousseau's *The Social Contract*, published more than a century after Hobbes's *Leviathan*, presented the social contract in a new light. It was nothing in the dim past, nor was it to be construed as tacit in any existing state. It was the means whereby, for the first time in history, the true, the only legitimate, state *could* be brought into being. What was required, Rousseau argued, is a contract among individuals whereby "each of us puts his person and all his power in common under the supreme direction of the general will." Once entered into, the contract is irrevocable and the newly established general will is absolute in power. Rousseau had only contempt for Lockean notions of natural or other rights persisting after the formation of the state. The contract demands the total surrender, alienation, of "each associate together with all his rights, to the whole community."

Such an alienation of rights does not, however, connote despotism. Since all members of the newly formed state are equal—in loss of natural rights and in acquisition of equality of membership in the political community—it will never be to one man's advantage to seek to tyrannize his associates. As soon as the state is formed, it becomes automatically impossible to hurt one member without hurting the entire political body, with all members affected. Similarly, "the sovereign power need give no guarantee to its subjects because it is impossible for the body to wish to hurt all its members." The general will alone is sovereign, and whoever "refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free."

But what is the general will? Rousseau indulges in no nonsense about majorities or even unanimities necessarily being the substance of this will. For, he points out, there is the "will of all," and although this *may* be identical with the general will in a given situation, there is nothing mandatory about it. The general will appears only when a people has first banished from its collective mind all thoughts of individual or partisan interest. Rousseau has in full measure the Enlightenment's general hatred of such intermediate groups as kindred, church, and guild, and he insists therefore that it is "essential, if the general will is to be able to express itself, that there should be no partial society within the state." Between individual and sovereign there can be nothing that is not of the sovereign's making and under the sovereign's power.

Rousseau's genius, and the basis of his multifold appeal in the centuries following, lies in the care with which he enclothes his sovereign's monolithic power in such words as *people, public interest*, and above all, of course, *the general will.* As I have already noted, the last is so far from being synonymous with the expressed wish of a majority of the citizens that it must be explicitly distinguished from mere numbers. What makes the will general "is less the number of voters than the common interest uniting them." But how, we ask, is this common interest to be ascertained, to be recognized when it exists? Not, Rousseau tells us clearly in his *Discourse on Political Economy*, through any assembling of the people. It is by no means certain that any decision of the assembly would reflect the general will; such a method would be "impracticable" in a large nation; and, most important, such

assembly "is hardly ever needed where the government is well-intentioned: for the rulers well know that the general will is always on the side which is most favorable to the public interest... so that it is needful only to act justly to be certain of following the general will." Needless to say, there have been few governments in history which have not considered their rule, however harsh, as just.

Rousseau believed the religious impulse in man to be fixed and ineradicable. What is necessary, therefore, is to unite religion and the state. This Rousseau does through what he calls the "civil religion." Its articles of faith should be fixed by the sovereign, "not exactly as religious dogmas, but as social sentiments without which a man cannot be a good citizen or a faithful subject." The tenets of this religion will concern the state and its members "only" so far as they have reference to morality and to the duties requisite to the state's welfare. Rousseau speaks with all the force of Dostoevski's Grand Inquisitor about the dogmas of *la religion civile.* "While it can compel no one to believe them, it can banish from the state whoever does not believe them... as an anti-social being, incapable of truly loving the laws and justice, and of sacrificing at need his life to his duty." Beyond this, if anyone, after publicly professing belief in these articles, behaves "as if he does not believe them, let him be punished by death."

It is necessary to remind the Moral Majority that behind the totalitarian states of the 20th century lie vast schemes of attainment of virtue by political force.

Vox Populi, Vox Dei

Although Rousseau's *Contrat Social* seems to have been one of the least read of his books during the decade leading to the outbreak of the French Revolution, it became one of the best read of books during the Revolution. No one else had so glorified the people—the population, that is, freed of its dissenters, criminals, traitors, bigoted, and otherwise wicked—and so convincingly demonstrated that government could reach any height of repressiveness so long as it was anchored in the people.

It is no wonder, then, that the French Revolution brought the ideas of people and nation to a white heat that would tend to melt all other loyalties. From Mother Russia in the east across the continent and the Atlantic to the United States, the nation became almost literally the Voice of God. Once the sacred state had been premised upon belief that the ruler was a god; now it was the people, conceived as nation, to which holy attributes were given.

The United States serves very well as example of the power of civil religion—down at least through the Great War. Americanism vied with Christianity as the religion of true believers. Americanism had its proper calendar of saints' days for Washington, Jefferson, Jackson, Lincoln, and others. It had its Torah or Pentateuch in the Declaration of Independence and the Constitution. Medallions, scapularies, banners, epigrams, paintings, statues, and other essentially religious objects abounded. Its Nativity was of course July 4th, down until perhaps a half-century ago observed by Americans more fervently than any of the Christian holidays.

Basic to the American religion was the belief in the redemptive mission of the United States in the world. More than anything else it was this belief that governed the mind of Woodrow Wilson during his tragic presidency. For Wilson, both before and after American participation in the Great War, the sacred obligation of America was, in his words, "to teach other peoples how to elect good men." To "make the world safe for democracy" meant, of course, American-style democracy.

If Wilson and other worshippers at the national altar needed anything to quicken faith, to bring belief to a white-hot intensity, it was the almost transfiguring experience in America of 1917-18. Never perhaps in history had a large people known religious conversion so quickly and powerfully. From a nation of neutrals, of fastidious rejection of European wars, Americans became, with only a few exceptions, crusaders, as avid to carry the religion of Americanism to the old world as their medieval forerunners were in their Christian mission. It was a rare Sunday sermon that gave God the attention that America the Beautiful got. After all, nearly 200,000 volunteer vigilantes, the so-called Four-Minute Men, patrolled the land under Wilsonian orders to make certain that the American cause was properly recognized at every assemblage; to ignore or oppose them was almost instant ground for popular indictment as heretic. The Kaiser and all Germans were necessarily infidels; worse, minions of hell, disciples of the devil. To be charged with pro-Germanism could be as deadly an experience as being charged with witchcraft in the 17th century.

I am not suggesting, though, that the religion of nation-state was limited to America, no matter at what intensity. Throughout most of the 19th century, down through the early years of the Great War, nationalism could be as ecstatic and mystical a thing for Europeans as for Americans. Intellectuals, today overwhelmingly dismissive of anything smacking of patriotism, were then prime movers in the new religion. France and Germany ran hot competition in the published works of historians and philosophers to establish the sacredness and the appointed mission of their respective nations. Not since the Reformation had Europe known the enthusiasm that now permeated nations rather than cults.

The Great War brought all of this to fulfillment—and then near-disappearance. It is difficult today to summon up, much less explain, the states of mind which were a commonplace all over Europe on matters of devotion, sacrifice, and martyrdom in behalf of nation. During at least the first two years of the war the young, those who faced almost certain death or injury in the trenches, were as religiously caught up as any of their elders. To give one's blood for England or France was like the medieval crusader's gift of blood for Christ. All the primordial militarism of the first states in history was nakedly displayed in the Great War, but few saw nakedness; only robes of divinity. Rousseau's civil religion, at the zenith of its 19th-century ascendance, saw to that.

Social Welfare

During the 20th century, yet another euphemism for political power has made its way into popular usage: the social welfare state. It is one of history's ironies that the word *social* should have been so easily appropriated by the political clerisy. When this word achieved popularity in the West in the early 19th century, the context was overwhelmingly the *nonpolitical* spheres of society—family, neighborhood, local community, and voluntary cooperative association foremost. To French sociologists and radical anarchists alike, the state and the political were in bad odor

after the totalitarianism of the Revolution. Auguste Comte, founder of sociology, led the way in seeking to repudiate the political and to exalt the social as the only feasible alternative to the political. Alas for Comte's hopes, the political clerisy was already at work seizing upon the "social" before he died.

It is not difficult to understand the attractiveness of the "social" in place of the "political," for the latter had inevitably become somewhat stained in the public imagination. There were too many citizens for whom the state was still a reminder of war and taxes, and, in any event, there were simply limits to what could be done with the word *political.* Such neologisms as *politicization* and, worse, *politicalization* didn't recommend themselves when reference was being made to the political state's ownership and control of increasingly large areas of economy and society. Such words may have told the truth, but it is the function of language to be able to conceal, as well as reveal, the truth.

Social was made to order as a beguiling prefix. "Social reform," "social security," and "social budget" were so much better as labels for what governments were actually doing than would have been any of these with the word *political* used instead of *social.* Similarly, for those who could dream of an ever more state-dominated future, *socialism* was much to be preferred to *politicism.* And who is to say the clerisy is wrong? How, for instance, could the now-mammoth and always near-bankrupting "social security" system in the United States have ever reached its eminence and load of close to 40 million people if it had been called in the beginning "political security" or something so mercilessly exact as "state charity."

Big euphemisms in politics spawn small ones. Thus *civil rights,* once a precise term for individual rights within the governing process, now stands mostly for group entitlements, Social Security and Medicare being only the biggest. *Affirmative action* is the euphemism used for a widening complex of highly negative actions by the state against individual liberties. The phrase is obviously more felicitous to political sensibilities than *quota system,* which is in fact the substance of "affirmative action" enforced by the government.

It is politics alone that has generated the race to euphemism by the various "public interest" groups concerned with enlarging the number of government grants. Thus the once-honored "elderly" or "aged" have been retired for good in favor of "senior citizens." The blind and the deaf have given way to the "hearing-impaired" and the "sight-impaired." The feeble-minded are gone, succeeded by "the exceptional" in all public laws. And, finally, through political legerdemain, the poor and needy have been at last banished, replaced by "the underprivileged."

Soulcraft

Recently a resurgence of the moral and the sacred has taken place in American political thought and action. George Will, political columnist, has given benediction to this resurgence in his book *Statecraft as Soulcraft.* The time has passed, Will declares, when the governing machinery can properly limit itself to the actual behavior of individuals and "concern itself with soybeans but not virtue." He is contemptuous of the insistence of the late Supreme Court Justice Felix Frankfurter that government consider behavior, not "the inner mind," of those it rules. No longer may moral matters such as abortion, birth deformities, and school prayers be left where they have been for millennia—chiefly in the hands of the family and the church and in our day the medical profession.

If there is to be virtue in these and related matters, says the self-styled Moral Majority, statutes of the national government and even constitutional amendments are mandatory. Neighbor may be set on neighbor in the interest of total conformity to political laws of virtue. The entire coercive machinery of the state is to be utilized when necessary. But, writes George Will, none of this is to be regarded as "compelling persons to act against their settled convictions; it is not collision of wills. . . . Rather it is a slow, steady, gentle, educative, and persuasive enterprise." That it is also an enterprise in which police, prosecuting attorneys, courts, and prisons quickly and necessarily enter seems not to matter to the Moral Majority and its prophets.

Will and his allies believe that this assignment of virtue to the political state has Edmund Burke for its ancestor. In truth, it is not Burke, who abominated centralization of political power, and especially in the moral realm, but Jean-Jacques Rousseau who gave birth to the philosophy of political manufacture of virtue and of virtuous minds. Early in his life, Rousseau tells us in the *Confessions,* he had come to the realization that people's moral lives are shaped by political government. It was thus easy for Rousseau to reach the conclusion in *The Social Contract* that when government coerces, it is only "forcing men to be free" and of course virtuous. Government must penetrate "into man's inmost being," Rousseau declares, if it is to progress from merely ruling men to "making men as they should be." It is the sacred task of government, he concludes, to change human nature, to transform "each individual, who is by himself a complete and solitary whole into part of a greater whole from which he. . . receives his life and being." Rightly do we perceive the Rousseauian state as a form of permanent moral terror.

It is doubtless cruel, but it is necessary to remind the Moral Majority in America that behind the totalitarian states of the 20th century lie, without exception, vast schemes of attainment of virtue in the citizenry through limitless uses of political force. Lenin, Stalin, Hitler, Mao, and Pol Pot have not been by nature sadists and carnage-mongers. They have been, though we shrink from the word, *idealists,* so certain of being morally right in a world of evil that they believed themselves justified in uses of political power ranging from simple decree to what the Nazis in a triumph of political euphemism called the Final Solution. From Marx, Lenin drew a picture in his head of the perfect socialist man; and in the interest of creating this being, no limit to the use of force could properly be regarded as virtuous. Again, it is cruel but necessary to see Leninism in its several forms as nothing less than Soulcraft.

Afterword

It is almost too much to bear. More than 2,000 years of political euphemism and panegyric, and with what result? The state, born of war and nourished by war, has become, all euphemism notwithstanding, more powerful, more inquisitorial in human lives, than at any time in its history. It is almost as if Mars, god of war, were exacting tribute from us for having sought for thousands of years to conceal with euphemism the union of war and state. For, in our century the state has reached a pinnacle of force never before known in history, and warfare has taken more lives in devastation, killing, and mutilation than in all previous centuries put together. ◧

Robert Nisbet is Albert Schweitzer Professor Emeritus at Columbia University and adjunct scholar at the American Enterprise Institute. His latest book is Prejudices: A Philosophical Dictionary. *This article is adapted from his contribution to the forthcoming book* Fair of Speech: The Uses of Euphemism, *edited by D. J. Enright (Oxford University Press).*

VIEWPOINT

Mucking Up the Melting Pot

BY LYNN SCARLETT

Over half a million Indochinese refugees have flocked to the United States in the wake of South Vietnam's collapse. For none of these refugees was the flight from their homeland an easy one, but for one group—Hmong people—the uprooting has been especially traumatic.

Tribal peasants from the highlands of northern Laos, the Hmong were catapulted from a centuries-old slash-and-burn farming culture into the computer age. They were totally unfamiliar with modern urban life, even in their own country. Not only stoves and refrigerators but tables and chairs were foreign. Banks, checking accounts, and supermarkets defied even the imagination in their native home. And they were illiterate—in fact, their own language doesn't have a written form.

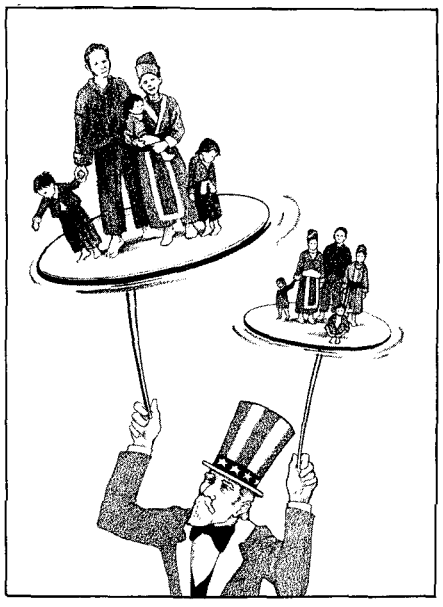
When I was asked recently by a United Nations organization to chart the Hmong's problems and prospects in Southern California, where over 33 percent of the 50,000 Hmong in the United States have settled, I found a people struggling to adapt to monumental changes in their lives. But my investigation also revealed something deeply troubling about America's welfare system.

Like millions of immigrants who had preceded them to the United States, the Hmong were greeted by generous volunteers—individuals and charitable organizations—who helped ease them into their new surroundings. Unlike past eras, however, the federal government now has its fingers in just about every dimension of America's melting pot. There are programs to impart to immigrants language and job skills. There are taxpayer-funded housing subsidies, health-support systems, special counseling, and welfare.

It all sounds quite generous, at first. But, talking to the director of the Indochinese Community Program in my area (yes, it's federally funded), I noticed how much support for the Hmong has gone toward guiding them through a maze of government bureaucracy. Immigration papers, Social Security numbers, tax forms, Medicare forms, welfare applications, immunizations—all this, the program director proudly confided, her office takes care of for the refugees.

Had any of the Hmong in this area, I asked, set up businesses? A bemused director replied that these people can barely cope with the basic procedural requirements of settling down in machine-age America. Surely, she said, not realizing her implicit criticism of what America had become, they could not contemplate throwing themselves against the morass of agencies, councils, commissions, boards, and departments that regulate small business.

Contrast this to the situation in turn-of-the-century New York, where government interference didn't nip entrepreneurship in the bud. The waves of immigrants that poured in then have left a rich diversity of shops, restaurants, and services that bear witness to what unrestricted opportunity can mean for individuals.



Today we have, instead, refugees who are increasingly pushed on to the mercy of government welfare programs, as private efforts are crowded out and entrepreneurship is stymied. And what the government gives with one hand, it is often quick to take away with the other. Whether a tribute to the hardworking refugees themselves, or to the vigorous efforts of the Indochinese Community Program's directors, 75 percent or more of the Hmong in this area have found work. Ironically, that very success seems likely to engender the demise of the program—since its welfare rolls are slim, the program is slated to receive no more funding.

In the same building out of which the Indochinese Program operates, I saw healthy, able-bodied American adults lined up for their regular welfare handouts. Some, the director complained, have been receiving welfare checks for a decade or more. Meanwhile she could point to a Hmong tribesman—illiterate, speaking no English, with 10 children and almost no belongings, in utterly strange surroundings—who is ineligible for continued assistance because of legal quirks and political finagling.

The program director seemed genuinely concerned, and I asked whether she'd reached out to the community for help. Yes, she said. She had presented a plea for funds to the city council, to county officials, to the mayor, to the local congressman, to the state senator—all government officials! I probed further. What about individuals? Philanthropic volunteers? I was astounded, but *it had not even occurred to her* to seek help from the private sector.

Historically, the United States was a land of opportunity for immigrants. It offered them relative freedom to pursue their dreams. And, with flourishing voluntary, charitable organizations, it provided a flexible support network for the needy. Today, we have a situation in which eager, hardworking individuals, hindered from setting out on their own, become captives of a welfare system that is unreliable yet breeds dependence. And, in a self-perpetuating process, the social workers who administer the system have been inculcated, more often than not in government schools, in the creed that governments, not individuals, solve problems. Slowly but surely this creed has penetrated our ranks, narrowing our vision and capping our imagination, so that a call for help is unquestioningly put out as a call for more government. What an introduction for the Hmong!

Lynn Scarlett is REASON's book review editor. She is in the doctoral program in political science at the University of California, Santa Barbara.

Illustration by Susan Salladé

Taxing Tragicomedy

BY TIMOTHY CONDON

Hooo-o-ooo boy, I *love* it. The "Tax Reform Bill of 1984" has been passed with much fanfare by a supposedly budget-minded Congress and signed by a supposedly low-tax president. Hah! The new tax bill—just the latest installment in a long-running yearly tragicomedy—might just as well be called "The Tax Lawyers and Accountants Relief Act." It's about 1,300 pages long, and no one except lawyers and accountants will be able to figure out what it all means... and maybe not them either.

The bill further screws the American taxpayer, to the tune of about $50 billion—all, *naturally*, in the name of "reform." (Let's face it: when physical torture is approved by Congress for tax investigations, and the penalty for tax resistance is death, our elected representatives will *still* call it "tax reform.") And the bill impairs or wipes out some pretty good little tax dodges that mostly benefited us working stiffs.

Let's look at some of the more-important provisions for individuals. One of the absolute *worst* parts is an attack on nontaxable "fringe benefits." You know, things like free travel passes for you and your family; employer-supplied work clothes, tools, low-cost vacations, meals, and child-care services; free use of employer-owned health resorts, etc. All gone, it appears. All the above are "nonstatutory" fringe benefits—they're not specifically provided for in the tax law, unlike death benefits up to $5,000, health-care plans, pension programs, and such.

The new law lays out five "tests," one of which must be met in order for a fringe benefit to be nontaxable. The entire area is basically reduced to (1) services provided which cost the employer nothing "extra," (2) certain employee discounts, (3) benefits relating to "working conditions," (4) benefits which are of such little value that they can't economically be kept track of, and (5) certain tuition reduction plans for non-graduate-level education. That's *it*, folks.

What else have they done to us? Income averaging—useful when an individual has rapidly increasing income over several years—has been fixed so that fewer individuals will benefit. They've clamped down on business automobiles as a tax break: now the damned things have to be used *more than* 50 percent for business, or you lose the investment credit and accelerated depreciation. In addition, strict documentation of business use must be kept, or you don't get the business-use deductions. These rules also apply to *all* business property used partly for personal purposes... such as computers. And use for investment-planning purposes doesn't count.

Congress has also gone after the Evil Businessman who buys "luxury" business autos: now, the maximum investment credit a taxpayer can get on *any* business car is $1,000, and depreciation deductions for the first three years of ownership—normally the entire cost of the car—are limited to $16,000.

They went after the Reagan-revolution tax breaks too. Tax indexation, which will prevent all of us from being automatically ratcheted into higher tax brackets as government causes more inflation, survived repeal by *one vote*. We weren't so lucky on others:

- Starting in 1985 we *were* going to be able to deduct 15 percent of net interest income, up to a maximum of $450 for single people and $900 for married couples. That's now dead.
- In 1984 the amount of depreciable property that could be currently "expensed" *was* to increase to $7,500 and then to $10,000 starting in 1985. That's delayed: the amount stays at $5,000 until 1988, when the $7,500 limit kicks in, going to $10,000 in 1989.
- Foreign earned income is tax-free up to $80,000 as of 1983; each following year the amount *was* to increase by $5,000, to $95,000 in 1986. That $80,000 is frozen through 1987, when the increases again begin (unless they're rekilled at that time, a distinct possibility for *every* scheduled tax break).

Interest-free loans, an excellent tax-planning tool, especially for families, were absolutely ravaged. The new, complex rules for such loans can cause them to be subject to both income *and* gift taxes. Careful planning can beat part of the new gouge, however. All kinds of new rules have also been added regarding tax shelters and their promoters, but of course none of the new rules benefit the taxpayer. And then there are the extensive new powers and penalties that the IRS can use against those who fight: tax-dodge churches, filers of "frivolous" lawsuits, "valuation abusers" regarding property donated to charity, and so forth.

And folks, let's get one thing clear: there are many, many, many, *many* other complex new tax-law provisions. The system is convulsing and twisting in upon itself. The object is to force ever *more* money out of the producers in our society. The effect will be to enrich tax professionals and drive more of the economy "underground." As for government, the tax increase will probably cause further *increases* in spending, with higher deficits and an extension of the scope and power of various bureaucracies. This is the historical pattern.

Now, there *are* a few positive provisions in the bill. The capital-gains holding period is going down from one year to six months. Certain charitable contribution limitations have been increased. Further tax incentives have been laid on Employee Stock Ownership Plans (but probably only because this has been sold to Congress not as a way of spreading capitalism around but as thinly-veiled Marxist claptrap about "worker ownership of the means of production"). But overall, the bill is just another giant step increasing the power of government to tax and snoop in our lives. It is an awful act that should have been vetoed by President Reagan.

What's coming next year? Get this: Mr. George H. Henry, senior tax counsel for the Democratic-controlled House of Representatives, stated in a June 1984 speech that the "present tax system is unfair to little people. It favors the wealthy and business." Thus, he predicted 1985 will bring two new pieces of tax legislation: one for more "reform" (read: higher taxes), and another for "revenue enhancement" (read: higher taxes). With friends like him, America hardly needs the fools in Congress who are running us into the ground.

So batten down the hatches! Our lawmakers are doing their *best* to cause another antitax revolution. The question only appears to be when.

Timothy Condon is an attorney and tax specialist practicing in Florida.

Life & Liberty

The Best Within Us

By Alexandra York

"She caught the flicker of waving arms, of hats tossed in the air, of something flung against the side of the engine, which was a bunch of flowers.

"As the miles clicked past them, the towns went by, with the stations at which they did not stop, with the crowds of people who had come only to see, to cheer and to hope. She saw garlands of flowers under the sooted eaves of old station buildings, and bunting of red-white-and-blue on the time-eaten walls. It was like the picture she had seen—and envied—in schoolbook histories of railroads, from the era when people gathered to greet the first run of a train. It was like the age when Nat Taggert moved across the country, and the stops along his way were marked by men eager for the sight of achievement. That age, she had thought, was gone; generations had passed, with no event to greet anywhere, with nothing to see but the cracks lengthening year by year on the walls built by Nat Taggert. Yet men came again, as they had come in his time, drawn by the same response."

—Ayn Rand, *Atlas Shrugged*

And they came again. Not in the imagination of fiction this time, but in real life. From the hills of Mississippi and Tennessee to the plains of Missouri and Kansas, around the clock, people came to stand every 100 to 200 yards across 9,100 miles of America to cheer, to wave, to sing their salute—now, to the Olympic torch bearers. "God bless you, son, for making me feel like this again," said one woman with gray hair. When asked for her name by a newspaper reporter, she answered, "You just say I'm an American." "Hold it up high, Laddie," shouted a man in a small crowd. "Look at that runner, Honey," a mother told her child. "Look at that runner and always remember him." A farmer, standing on top of his tractor in the middle of a soybean field, merely applauded. Hats came off, and some *were* tossed in the air; hands were placed over hearts. At dusk, a single bugle echoed the strains of the national anthem which, along with *America the Beautiful* and *The Battle Hymn of the Republic*, had sprung spontaneously to the lips of Americans during the day.

From its landing in New York on May 8, 1984, across 33 states, to its arrival in Los Angeles for the opening ceremonies of the Olympic Games on July 28, the ancient flame of Greece ignited a common spirit of individuals throughout our land. No one expected it. No one should ignore it.

The Olympic torch is the symbol of continuity between the ancient games of Greece and their modern counterpart today, the idea being to *bring* the light of Greece to the modern site of the games. Originally, the sacred flame was lit at Olympia to honor Zeus. In one of history's ironies, the custom was revived in its present form, a traveling flame, at the Berlin Olympics of 1936 at which Hitler presided. The sun's rays still flame the torch at Olympia in Greece, but now runners carry the flame, passing it in relay fashion, over land, on ships, and on planes, until it reaches the games each year.

Each runner in America carried the flame for one kilometer before passing it on. It was then, as reported in newspaper after newspaper, at that moment of wordless exchange, that some one person along the road would begin to hum or sing softly, "O beautiful for spacious skies...." Then, everyone was singing together.

The torch was no longer just the symbol of the Olympic Games. It was also the symbol of freedom.

Forty-one vehicles, averaging 125 miles a day, made it all happen. The caravan had to be fed, bunked, showered, and supported in a variety of ways through all kinds of terrain and weather. That kind of support, everyone had counted on. What they didn't count on was the support of thousands of individuals who cheered them on. They knew about the cities where many companies had donated $3,000 each to a local charity in order to have someone carry the torch for a kilometer. They weren't even surprised when thousands of spectators in St. Louis mounted the chant "U-S-A! U-S-A!"—that could have been a competitive chant. Or when groups of runners joined them for a short jog—joggers love a good jog.

What they weren't prepared for was turning a corner at night to find people of all ages standing up with flashlights from sleeping bags where they had been waiting for the passing of a runner. Or the little, rural towns where people lined the sidewalks with candles—mini-torches—to light the runner's way. They were prepared for the cameras...but not for the flags.

All over the countryside, church bells, fire sirens, and truck horns marked the location of the torch. Did Ayn Rand foretell, in *Atlas Shrugged*, that they would throw flowers? They did. Some people even traveled from other states, where the runners would not cross, to participate in the event. And participate they did. In pickup trucks, in cars, and in vans. Individuals, families, and friends. One little boy on a bicycle stayed with the caravan for 15 miles before police made him go back home. Women emerged from their homes in nightgowns and curlers. No one noticed.

"It's so strong," one runner said with an emotion as strong as the one he was describing. "And it's everywhere outside the cities like a wave moving along with us. I never expected it. But there's all these feelings pent up. And a special chemistry. And when people see the torch, they relate it to patriotism. There's a hunger for that in the land. And for a hero."

Correct, but possibly not complete. True enough, there is a hunger in the land for heroes. But patriotism? Alone? Or could those powerful reactions be symptomatic of values even deeper than patriotism? One man whose employer had given his workers time off to greet the runners may have sensed the depth but shied away from it: "I'm not sure why I'm here," he confessed. "But I

know there's more to it than standing in the sun a long time to watch a guy run by in his underwear carrying a huge match."

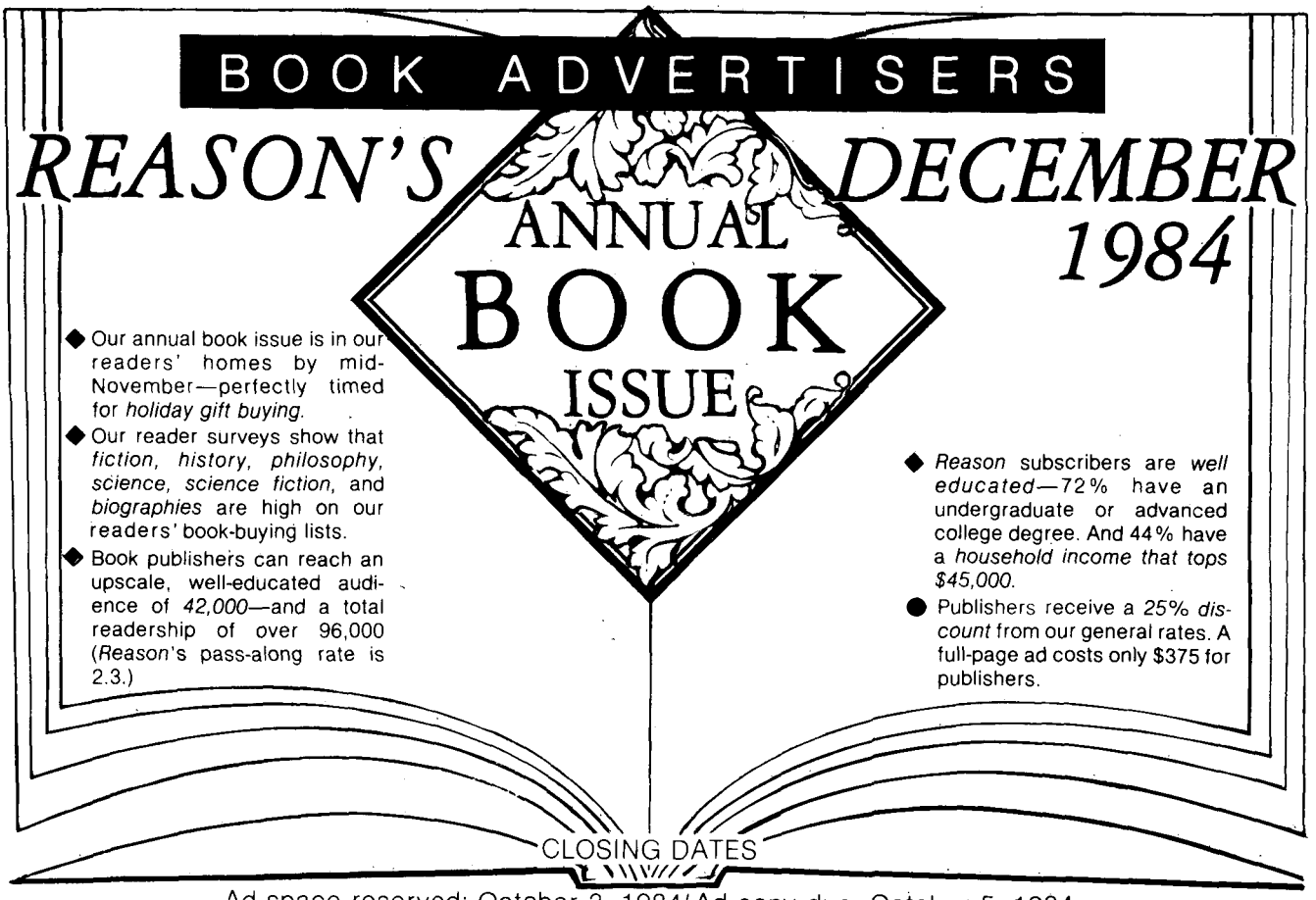
Yet "a huge match" was the perfect metaphor. That torch may have struck and lit afire something in the souls of countless Americans much more fundamental than patriotism. Chauvinism, alone, would not appear primary enough to be the only operative here; the emotions were too deep, the spirit too strong, to be explained by mere tribal identification. Then, what *was* the operative? The answer could lie buried beneath repressed or, more likely, unidentified premises to which the distilled emotions that were evoked could be providing dramatic clues.

Could it be that, at root, the Olympic Games are not for many people primarily a competition between nations or even individuals? All political issues (which are many and complex) aside—political issues about who should or should not compete or who will or will not win—the Olympic Games are an unparalleled opportunity, in today's world, to *experience*, in Ayn Rand's words, "the sight of achievement."

And in America, still the freest country in the world, *that* torch carried by *American* men and women across this land just might have created a unique forging of mind and body that, because it was so spontaneous and unanticipated, may be rather revealing. The physical excellence, as exemplified by the games, combined with the moral excellence that is—or was or could be—America at its very best... The Olympics, the symbol of human achievement in the physical arena; America (still) the only symbol of achievement in the moral arena, symbolizing man's right to be free. Unconscious though the forging may have been, and though it all passed on the surface to be pure patriotism, this deeper explanation may answer, in principle, the haunting question of why feeling ran *so* high and *so* deep.

Americans may not be hungry only for patriotism in the land. Or only for heroes. This outpouring by *individuals* of emotional solidarity may mean that they are also hungry for moral justification. And are full of gratitude that they are Americans. For the right reason—because they are *free*. These individuals appearing, unbidden and unorganized, day and night, in their own individual manner, may grasp, on a grassroots level not fathomed by politicians or professors, the meaning of living in a free country.

If true, we must ask next, however, whether the Americans who came to see the torch *knew* why they were coming. Probably not. But the *fact* of their self-generated response can still give hope. It could mean that beneath the cynicism, beneath the disillusionment, beneath even the apathy that pervades the intellectual community in America, there still glimmers, in the people, a ray from the fire that gave freedom its birth, a ray that burst into flame for one bright moment. *Did* they come to see man's greatest values concretized in one shining glimpse of a human being carrying a torch from the cradle of Western civilization across America? On some level, did they come to witness the light of achievement that can be man, both physically and morally? It would be the stuff of fic-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tion. Could it be real? "Yet men came again, as they had come in his time, drawn by the same response."

A cleaning woman took the afternoon off to stand in front of her home with her brother and her son. They held up the flag that had covered her father's coffin. "It's America, you see," she said. "And we love it."

Perhaps, we *do* see. Perhaps, we *dare* hope. For "the best within us."

Alexandra York is the author of several books and numerous articles.

Conservative Villains

By David Brudnoy

Conservatives have a grudge against Hollywood, and against movie critics, too. The obtuseness of the reviewer set was nowhere more clearly demonstrated in recent months than in the critical reaction to the comedy *Top Secret!* This outrageous satire of war movies, spy movies, Elvis Presley movies, and a great deal more, made by the creators of the first *Airplane* (but not its pallid sequel), is set in the present, in East Germany. An American rock star has been brought there for a "cultural" festival, in lieu of Leonard Bernstein, who wasn't available. That it is *East* Germany is repeatedly stressed, and the time is now. And who rules *East* Germany? Communists, of course. And whom do this movie's communists resemble in their officiousness and sterility of thought? The Nazis, that's who. You've got it! The Communists are, by analogy, the Nazis. Score one for the politics of William F. Buckley, who makes that all quite plain in his recent fun, fine novel, *The Story of Henri Tod.*

Ah, but what did the average reviewer make of all this? In Boston, only yours truly among the major reviewers noted that the villains are communists; my colleagues saw them, or wrote and spoke of them, as Nazis. Surprisingly, of the national journals, only the leftist *Village Voice,* in reviewer David Edelstein's column, made no bones of the fact that the villains are communists. Here, in the land where the (movie-fictional) national anthem goes: "Try to take a running jump at the wall./ Forget it:/The guards will kill you if the electric fence doesn't first," here, surely, is a nice dig at communists.

And the reviewers miss the point. Do audiences? I don't know. But conservatives and other moviegoers who appreciate the nature of communism have to wonder about the critical facilities of the critics, or wonder about their politics. As for the movie-making community itself, only the recent *Moscow on the Hudson,* a comedy about a defector from Russian communism, has successfully mined more than a superficial lode of anticommunist sentiment. Taking conservatives at their word, that they find communism a major evil, we can see why they view film in our time as not politically friendly.

And there's even more to it than that for conservatives, as one can see by the published right-wing attitude toward film in general. The John Birch Society's weekly *Review of the News* has research director William B. Guidry at the movie desk, wherefrom he writes funny, literate, sprightly reviews. But they descend to frothing when anything even vaguely homosexual is to be found in a flick, and they terminate invariably with a description of the naughtiness in language and sex and, sometimes, violence, in the movie under examination.

The *Conservative Digest* no longer reviews films regularly, but New Right strategist Paul Weyrich and censorious preacher Don Wildmon periodically express disgust and amazement at what is coming out of Hollywood. *Human Events* touches on movies when they are overtly political, otherwise ignoring them. *National Review* has had only a few regular reviewers, among them the currently playing John Simon, who dislikes almost all movies, but not from an overtly conservative viewpoint. Mr. Simon just finds practically nothing likeable on screen, and he says so. There, in brief, is a potpourri of conservative organs of opinion, none of which really enjoys films *qua* films, and some of which regard the cinema as the enemy.

Conservative heroine Phyllis Schlafly periodically unleashes her fury at the movies, as in her syndicated column of late June of this year. She asks: "Are the moviemakers deliberately selling us left-wing, liberal propaganda on political and social issues? Or are they merely free-enterprise entrepreneurs who are interested only in making fast bucks by giving the public what it wants? Put another way, are the movies a maker of moral standards and social attitudes, or merely a mirror to reflect the changing mores of society?"

Using a study by Stanley Rothman, a professor of government at Smith College, and S. Robert Lichter, political science instructor at George Washington University, Schlafly informs her readers that the bias of the "movie elite," as she calls those who make movies, is significantly to the left of the American people. The members of this elite like Democratic instead of Republican presidential candidates, don't go to church, don't condemn premarital sex or abortion or homosexuality, want more government redistribution of income, and want to use TV to promote social reform. She concludes: "If you have suspected that moviemakers have a low regard for American institutions and values, now you have the proof. It's no wonder that more and more movies are dishing out political propaganda." Then she cites four examples (with which, as a critic who has seen them all, I must fully agree): "This year's propaganda films include 'Daniel' (which rehashes the Rosenberg spy case), 'Silkwood' (which attacks the nuclear industry), 'Deal of the Century' (which attacks the arms industry) and 'Under Fire' (which opposes our anti-Communist policies in Nicaragua)."

Other conservative commentators are heard from also, making points similar to those emphasized by Schlafly. Their message is that those who make movies aren't at all conservatives as *we* know conservatives; their movies are frequently left-wing; therefore, the reason their movies are frequently left-wing is that they are usually left-wing themselves. Evidence supports the contentions about the moviemakers' views and about the movies they make, but the connecting link is inferential, not demonstrated. The problem is more complex than the conservative commentators recognize or admit.

Consider the most phenomenal money-loser of all time, *Inchon* (1982), funded by Sun Myung Moon's Unification Church, virtually impossible to sit through, embarrassing even to those who liked its politics. Nobody went, no critic liked it, no audience could be manufactured for it. A wholly committed and hideously expensive anticommunist proconservative movie has become the biggest flop ever. On a lesser scale, a much better movie, from Britain, *The Final Option* (1983), stood forthrightly against the left and for the established verities, took mixed reviews, and despite its topicality—urban political terrorists and the fight to foil them—bombed.

Why? No audience, no box office. Why

(Continued on p. 62)

The Book Case

For Separation of Art and State

The Democratic Muse
By Edward Banfield
New York: Basic Books
256 pp. $15.95

Reviewed by John Hospers

The federal government should subsidize the arts, it is said, in order to improve the quality of citizens' lives. Much of Edward Banfield's new book, *The Democratic Muse*, is devoted to the thesis that government subsidy of the arts has not succeeded in doing this. Even if it did succeed, argues Banfield, furthering the arts is not the function of government.

Should the government try to "improve our minds and our aesthetic sensibilities" by subsidizing the arts, spending taxpayers' money for things to which many or most of them are indifferent? Is the moral and aesthetic improvement of citizens a task of the state?

"The drafters of the federal Constitution," writes Banfield, "did not make provisions for the improvement of men. James Madison and others believed that in constitution-making it was necessary to take men as they were rather than as they should be." Moreover, Madison noted in *Federalist 45*, the powers of the federal government set out in the constitution are "few and defined." As Banfield points out, "Support of art and culture is not among the enumerated powers. To find any warrant for it one must interpret the 'general welfare' clause in a way that Madison called absurd."

Nevertheless, this "absurd interpretation" is the one that has prevailed since 1936, when the Supreme Court declared that "the power of Congress to authorize appropriations of public moneys for public purposes is not limited by direct grants of legislative power found in the Constitution." And thus, writes Banfield, "It is clear that a fundamental principle of the American regime has been abandoned. . . . The functions of government are not unlimited; they are to protect the individual in the exercise of certain inalienable rights and to establish preconditions for the development of a competent citizenry." The same considerations that would prohibit a "national endowment for religion" should also have prohibited a National Endowment for the Arts.

The early chapters of *The Democratic Muse* trace the history of the gradual and increasing involvement of the federal government in subsidies for the arts. Among the issues necessarily raised by that involvement is what sorts of things are to count as art.

Banfield recounts the tribulations of Michael Straight, an official of the National Endowment for the Arts, when he was presented with a number of applications for federal subsidy. One artist proposed "a series of paintings, ten to fifteen layers of paint deep, consisting entirely of extremely subtle gradations of grey." Another wanted "to introduce taxidermy as a sculpture media by using painted plywood construction, dirt, sand, gravel, and animals to create different environmental situations." After reflecting on these proposals, Straight accepted them.

The same considerations prohibiting a "national endowment for religion" should have prohibited one for the arts.

Two other proposals, on Straight's view, were not "art," and accordingly he rejected them. One was for "a loop tour of Western U.S. . . . dripping ink from Hayley, Idaho, to Cody, Wyoming—commemorating the birthplaces of Ezra Pound and Jackson Pollock." The other was to rent "a studio with high ceilings and a cement floor, adjacent to a lush meadow." Banfield quotes from the artist's proposal:

> To this place I will bring Pigme, a full-grown sow, two female rabbits, a buck, two ring-necked doves, a woolly monkey. . . . we will all move in together. I will also bring those things necessary for a comfortable survival, including food and materials to use for building and maintaining nests. All of us will contribute to the creation, maintenance, and change of such an environment. . . . The educational value for all of us will be extraordinary.

Straight's veto of these two projects caused such indignation that his refusal to sign was circumvented by his superiors: the rules were changed, so that thereafter applicants were not to say what they intended to do with the money. Proposals were simply accepted and the money spent. Thereafter, projects that were admired by the art world could no longer be turned down—not even, as Banfield reveals, "the work of a well-known Italian painter, Piero Manzoni, who had bottled his own excrement and sold it as 'Artist's Shit.' "

When Sen. Strom Thurmond (R-S.C.) inquired of the Arts Advisory Council what provisions of the Constitution authorize legislation for federal support of the arts, Sen. Claiborne Pell (D-R.I.) was taken aback by the question. He answered by referring to patent and copyright laws, whose purpose is "to promote the progress of science and the useful arts." The inanity of this response did not prevent the late Sen. Lee Metcalf (D-Mont.) from congratulating Pell on his "fine constitutional analysis."

Interesting chapters in *The Democratic Muse* bear in various ways on the issue of federal support of the arts. The chapter entitled "What Is Art?" describes a variety of conflicting historical theories about what constitutes art. Another chapter describes the failure of subsidized art programs in elementary school to achieve any effect other than inducing hostility to the works shown.

In a later chapter, Banfield describes how federal subsidy of the arts gradually wormed its way into the legislative process, after being rejected by various presidents, including Kennedy. (Nixon accepted the idea—not because he had a fondness for the arts but because he wanted to be popular and show the public that he was no philistine.) Another chapter describes in desolating detail how the law, once on the books, has been administered—first by Nancy Hanks, who "ran it like a mom and pop store," and more recently by Joan Mondale (the presidential candidate's wife), dispensing

taxpayers' money to various persons and groups who curried her favor.

The National Council on the Arts passed a resolution stating that "the arts are a right, not a privilege." But the author details how, even if this absurd premise is assumed to be true, government involvement has totally failed in its purpose. If its aim is to present "fine art"—that which provokes aesthetic reaction or, preferably, one in which the viewer is caused to stand "in rapt attention"—then, says Banfield, the program has failed totally. Few of the subsidized works have this effect; but in addition, most people are fairly immune to these effects and prefer "popular art" to Bach's masses or Rembrandt's self-portraits. When the aim of the National Endowment for the Humanities and the National Endowment for the Arts gradually changed in the direction of supporting the "popular arts," there was no limit to the foolishness that was palmed off on the public in the name of art, most of it unrecognizable by any criterion other than that it was made by human beings or, in the case of natural objects like stones, exhibited by human beings.

A particularly interesting aside in Banfield's discussion concerns originals as opposed to good copies. In many cases it takes an expert with a microscope to tell them apart, so the aesthetic effect of the two on the viewer would be exactly the same. Yet museums (and the federal government, insofar as it subsidizes museums) insist on acquiring and exhibiting originals only, even when they cost several million dollars each. This elitism is inconsistent with the federal government's professed aim of bringing as much art as possible to the majority of the people.

Museums make certain that prints are of inferior quality, although superior-quality copies would be neither difficult nor expensive to make. If the market value of a certain painting is $3 million, and a copy of it that gives the viewer exactly the same aesthetic satisfaction could be made for $900, then $2,999,100 of the value of the original has nothing to do with the promotion of aesthetic experience. Yet current government policy aims to prohibit the making of high-quality copies. Indeed, the Art Dealers Association has long agitated for a legal requirement that reproductions of paintings and prints must be at least 20 percent larger or smaller than the originals. The same people who make such demands appear to have no objections to hearing (often inferior) recorded versions of great symphonies rather than listening to them in the concert hall.

In a concluding chapter, Banfield makes a powerful case for taking art entirely out of the public (subsidized-by-taxes) domain, and leaving all such activities to the unregulated free market. Not only would more art actually be available to "the people" that way, but people would not be forced to pay against their will for projects they care nothing about and indeed often find immoral or repellent. The position is well-summarized in a letter to the *New York Times*, commenting on an earlier letter castigating President Reagan (1981) for proposing cuts in the National Endowment for the Humanities budget:

> I am sorry that Martha Wilson [the previous correspondent] is "shocked" by the President's recommended cuts in funding for "the arts," which she believes would be "dealt a heavy blow" affecting "the quality of life in America." The worst blow—the unkindest cut—is inflicted when officials and those with a stake in approved high culture decide what "arts" my tax dollar is to support. I am tired of having people confiscate my movie money to buy what they consider aesthetically preferable. I welcome the Reagan move toward restoring my right to define what constitutes quality in my arts. No matching funds needed, thanks.

Yet while many Americans continue to express embarrassment at "the failure of their government to support the arts," many foreigners view the consequences of the traditional American separation of art from the state with admiration. British economist Lionel Robbins, for example, long a trustee of the Tate and National galleries, wrote,

> In the United States you see great galleries and museums, splendid libraries and research centers, all springing from private donations induced by the tax incentives. Here [in Britain] you see the springs of private benefactions virtually dried up by the incidence of penal taxation, and all cultural institutions more or less dependent on state initiatives which more often than not are too little and too late. . . . Can there be any serious doubt as to which system is preferable?

Many Americans are apparently still not convinced, believing that in the absence of government support the arts would wither and die. It is to be hoped that Banfield's book will be an important influence in unconvincing them.

John Hospers teaches philosophy at the University of Southern California and is the author of Understanding the Arts.

Compelling Reasons For Cooperation

The Evolution of Cooperation
By Robert Axelrod
New York: Basic Books
256 pp. $17.95

Reviewed by Eric Mack

Must cooperative behavior be forcibly imposed by some central authority, or can cooperation arise spontaneously from the choices of interacting individuals? Antiauthoritarians who challenge the common assumption that cooperation and order proceed from authority and imposed design will be heartened and fascinated by Robert Axelrod's *The Evolution of Cooperation.* For Axelrod explains how nonimposed cooperation is possible and investigates what ongoing strategies for interaction with other agents best enhance, through mutual cooperation, each strategist's well-being.

Axelrod's theoretical study begins with the assumption that most cooperative opportunities have the structure of a "Prisoner's Dilemma." Suppose that each of two individuals must decide whether to perform some service for the other, and neither can know whether the other's service has been performed until well after the fact. Nor does either individual have access to a "central authority" who can punish nonperformance.

In such a situation, the following will be true: Each party is better off if both perform (cooperate) than if both do not perform (defect). But each party is *best* off defecting while the other party performs, and each party is *worst* off cooperating while the other party defects. Each party, with his own self-interest in mind, will choose to defect, because each will reason that if the other party cooperates, he can get the best possible payoff by defecting; while if the other party defects, he can protect himself from the worst payoff by defecting. Unhappily, since each party will defect following this reasoning, both parties will end up worse off than with mutual cooperation. Which all sounds pretty dismal.

It doesn't do to point out the simple and important fact that the interaction between the parties is not a zero-sum game, with gains possible only if one party loses. Although each party stands to gain by cooperation, this does not show how cooperation is possible; for cooperation

may still not arise. This is the theoretical context in which we must ask again, how is cooperation without central authority possible? And we must not trivialize this question by simply assuming, for example, that each agent does not have separate aims but in fact cares about the total "social" payoff.

The answer Axelrod investigates is that cooperation is possible under three conditions. First, individuals must believe that they will be faced with similar decision situations in the future. Second, they must believe that what they do now will affect their payoffs in these future situations. Finally, they must care enough about these future payoffs. In other words, through repeated playing out of Prisoner's Dilemma situations, it can become rational to cooperate within particular situations of this sort. In itself, this answer is fairly obvious.

For example, suppose the relevant service on my part is to feed your grandmother on day 1 and the relevant service on your part is to feed my grandmother on day 1. If you cooperate and feed my grandmother, I do best to defect and eat the Lean Cuisine intended for yours. If you defect, I best cut my losses by again saving the Lean Cuisine for myself. You reason likewise. Hence, mutual defection.

But suppose we both have reason to believe that a similar opportunity for cooperation will present itself for a number of successive days. It is still true, on the same psychological assumptions, that the best outcome for me involves your ongoing performance matched with my ongoing defection. But if I start defecting, there is no way that you are going to continue to cooperate and take, for each day of the game, the worst possible payoff. You will defect too, and I know it, leaving me at best with the poor payoff from mutual defection. So what I want to do, instead, is to elicit your cooperation, and the repetition of the game allows me to do this.

By cooperating on the first move I may signal my willingness to cooperate. And perhaps I can signal my ongoing trustworthiness by not seeking short-term gains through defection once I have gotten you used to my cooperation. On the other hand, I may have to make clear my unwillingness to suffer unprovoked defection by promptly punishing such defections by withdrawal of my cooperation. Under certain conditions, at least, our strategies should coordinate into cooperation. Real-world cooperation without central authority represents just such coordination—made possible by the anticipated recurrence of valuable cooperation opportunities.

The most original and fascinating part of *The Evolution of Cooperation* is Axelrod's investigation of the best strategies for individuals to employ in our real world of repeated Prisoner's Dilemmas. Axelrod devised a variety of computer simulations of tournaments in which diverse programs played against each other. Although no strategy turns out to be best under all possible circumstances, the marvelous core result of these tournaments is the remarkable success of a strategy called Tit-for-Tat. Tit-for-Tat is a *nice* strategy—it cooperates until the player with whom it is interacting defects. But it is also *provocable*—it immediately punishes a defection by itself defecting on the next play. However, it is also *forgiving*—it will resume cooperation right after the other player abandons defection. In short, it starts cooperatively and then reciprocates on its next play according to whatever the other player has done.

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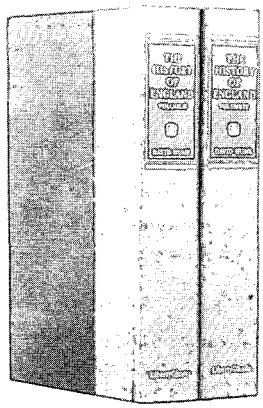

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Nice strategies, Axelrod found, are in general much more successful than *mean* ones. And Tit-for-Tat tends to be most successful because of its capacity to establish stable cooperative relationships. While it punishes defection, it holds no grudges. It succeeds because it establishes so many cooperative relationships (and because it does not get suckered very often)—*not* because it beats players who are using other strategies. While the Tit-for-Tat player is self-interested, he is completely non-envious. He advances his interests by advancing the interests of others.

Space does not permit even a listing of the interesting results and implications of Axelrod's studies. I shall make do with one characteristic example. Escaping exploitation and sustaining cooperation require that individuals be able to discriminate among those with whom they have interacted in the past. Human beings seem particularly adept at interacting with a great number of their fellow beings. What historically has enabled us to do this with the necessary discrimination is the tremendous individualization of our appearances, especially our faces, and our tremendous capacity to identify individuals by their distinctive appearances. Thus, without fully recognizing it, Axelrod leads us to another level of insight into the beneficial effects of diversity and individualism.

Axelrod's work does have its weaknesses. These range from the absence of needed distinctions between different senses of cooperation and defection to, for example, errors about the utility of unilateral free trade. One of the more-systematic weaknesses is his failure to emphasize sufficiently how ongoing free-market relationships exemplify self-enforcing cooperation.

Axelrod does point out that business firms with ongoing relationships rarely need and, indeed, may actively avoid recourse to mechanisms of political enforcement. But one waits in vain for any mention of the self-policing mechanisms that, for example, sustained medieval economic fairs and that are universally found sustaining interactions within politically weak but economically active minorities. Nor does the author seem to appreciate the broad significance of the issue of spontaneous versus coerced cooperation for the choice between individualist-libertarian and collectivist-command social and economic structures.

With the exception of a passing reference to the anarchist theorist Michael Taylor, there is no recognition at all of whole schools of social theorists who have focused on cooperation in the absence of central authority. Consider, for instance, Peter Kropotkin on mutual aid and Herbert Spencer's conception of human evolution as progressive differentiation linked with greater capacity for peaceful cooperation. Most regrettably, Axelrod seems astonishingly unaware of the writings of F. A. Hayek, where one finds the most systematic, suggestive, and far-ranging discussions of the evolution of mutually beneficial economic patterns, social institutions, and even language and law itself without central authority and design. Axelrod's intriguing and invaluable work would have been even more fruitful had it been informed by the insights of Hayek and the

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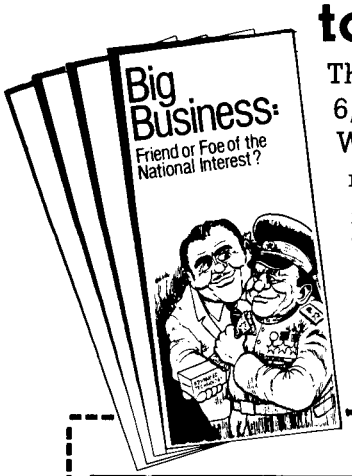

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various evolutionist, antiauthoritarian, and antistatist traditions in social theory. Nevertheless, it remains a wonderfully thought-provoking and pleasing work.

Eric Mack teaches philosophy at Tulane University and is a contributor to the recently published volume Defending a Free Society.

The Poverty Of Socialism

Tanzania: A Political Economy
By Andrew Coulson
New York: Oxford University Press
331 pp. $34.95/$15.95

Reviewed by Mary Mainland

Forced collectivization of agriculture, extensive nationalization of economic production, and expropriation of private property have been the hallmarks of President Julius Nyerere's economic program for Tanzania. For two decades, Nyerere has single-mindedly pursued his vision of African socialism. Yet even by his own admission, Tanzania is poorer today than it was over a decade ago.

Despite its abysmal economic performance, Nyerere's Tanzania remains the centerpiece for proponents of African socialism. In this light, Andrew Coulson's *Tanzania: A Political Economy* takes on a special significance.

In concept and execution, Coulson's book is analytical, not polemical. It nevertheless casts doubt on the belief of many secular and religious liberals that socialism is a morally, politically, and economically superior alternative to capitalism for the Third World. Tanzania's experience suggests that socialism will foster neither democracy nor development in underdeveloped countries.

Andrew Coulson worked in Tanzania for nine years, serving first in the Ministry of Agriculture and then, from 1972 to 1976, as a lecturer at the University of Dar es Salaam. He is scarcely an apologist for the German colonizers of the 19th century or for the British who acted as colonial administrators from 1916 until independence in 1964. Although he acknowledges such European contributions as roads, railways, cities, and formal education, he emphasizes the costs entailed, including loss of life, loss of a reliable and nutritious food source, and loss of many native skills. Nevertheless, it seems clear that Nyerere, rather than his colonial predecessors, must be held primarily responsible for the country's current dismal plight.

Independence was achieved relatively easily, in large part because of Nyerere's tactically shrewd leadership but also because the departing British could legitimately believe that the country had a promising future. There was a national language understood by most; tribal groups were such that none could expect special favors; there were no strong vested interests. The country had trade unions, a cooperative movement, associations equipped to organize effective political campaigns, and an economy that was the envy of many in the Third World.

Twenty years later, Tanzania is a so-called one-party democracy, with power lodged in a nonelective bureaucracy that functions essentially as a ruling class. Dissent is muted, and for some years Tanzania was high on the Amnesty International list of countries with political prisoners. Now an economic basket case, the country is one of the most heavily indebted of the underdeveloped countries.

The most graphic example of the country's economic decline is in agriculture. An exporter of food before Nyerere's policies took effect, Tanzania must now import food to feed its population. Coulson supplies convincing evidence that the drastic decline in agricultural productivity cannot be blamed on such natural disasters as the 1973-75 Sahelian drought. Even in areas where rainfall remained relatively normal, productivity declined.

Nyerere's speeches and writings are copiously quoted by Coulson. They indicate that Nyerere's guiding ideology is a blend of Fabian socialism, to which he was exposed at Edinburgh University in Scotland, and church teachings on social justice. His long-term vision is of a state that owns most of the means of production, equalizes income, and provides a wide range of social services. "A bastion (in Coulson's words) against capitalist domination from outside," Nyerere's "state" is expected to ensure freedom and justice for the poor.

Yet Nyerere has demonstrated an increasing authoritarianism and a willingness to use force, if necessary, to achieve his vision. This increasing authoritarianism is perhaps best illustrated by the process of "villageization," based on Nyerere's belief that the good life is possible in villages but not on small family farms dispersed over wide areas.

Most of the settlements that sprang up in spontaneous response to this view failed to survive, and the first village settlement policy was formally abandoned in 1966. In 1967, an alternative policy provided for small groups of politically committed farmers to work on communal farms, pooling their savings to purchase equipment. Originally, implementation was purely voluntary. But in a second phase, a limited amount of compulsion was allowed, and government aid and concessions were introduced.

Corruption soon developed, and the amount of work performed decreased when it became clear that government assistance did not depend on productivity. Finally, in 1973, Nyerere issued an order requiring virtually everyone to live in villages. Few of the 13 million reported to have been in the villages by the end of 1976 were there by choice.

"Villageization" has meant the end of local government, replaced in each region by an arm of the central civil service, which controls village life. A policy intended to reduce disparities in farm incomes has resulted in both large and small farmers now receiving far less income than they realized from the capitalist methods utilized in the '50s and early '60s.

Coulson offers no reason to believe that Nyerere's motivation is other than idealistic or that he is personally corrupt. Yet his imposition of state control over the economy has spawned a centralized bureaucracy that appears no more likely than any other ruling class to surrender its power and privileges voluntarily.

The implications of the Tanzanian experience should be pondered by those now urging Latin American countries to institute income redistribution measures and greater state control over their economies. If socialist policy has so signally failed in a once fairly prosperous underdeveloped country, why should it succeed elsewhere?

The American Catholic bishops would also do well to ponder Tanzania's experience as they prepare their pastoral letter on capitalism. Why should capitalism be considered less just than socialism when the general population of Tanzania was better served by capitalism during the late colonial period than by Nyerere's attempts to ensure a more equal distribution of income?

It is difficult, if not impossible, to think of any country, lacking both a democratic tradition and a high level of development, that has been able to in-

stitute socialism without creating a new ruling class ultimately as authoritarian as its predecessors. Though instituted in the name of freedom and justice for the poor, Nyerere's socialism may prove more disastrous for the Third World than the colonialism it was to remedy.

Mary Mainland is an attorney in California.

The Whats and Whys Of Regulation

Rights and Regulation
Edited by Tibor R. Machan and M. Bruce Johnson
Cambridge, Mass.: Ballinger; San Francisco: Pacific Institute for Public Policy Research
334 pp. $35/$11.95

Reviewed by Lester Hunt

Most people who have thought about government regulation of people's economic endeavors have views, either favorable or unfavorable, about the merits of one sort of regulation or another, and these views are very often based on moral considerations of some kind. Oddly enough, however, most of the serious research concerning the merits of regulation is economic in nature: the authors merely discuss whether the social benefits of regulation are larger than the social costs it imposes on us. As far as I know, *Rights and Regulation* is the only book-length study that focuses, in contrast, on the *ethical* issues of regulation. From this fact alone we have good enough reason to welcome its publication. But in fact we have more reasons than that, for it contains many enlightening and interesting ideas that deserve a good deal of thoughtful attention.

As a nonlawyer, I found the first three essays, all of which were written by lawyers, particularly interesting. J. C. Smith's illuminating discussion of the difference between civil and criminal processes in law will serve as an example.

Textbook accounts of the civil-criminal distinction typically rely on the strongly collectivist notion that civil procedures concern offenses against an individual, while criminal procedures involve offenses against society, or the state. Smith accounts for the difference between them, without any collectivist notions, on the basis of the status of rights in the issue to be resolved: the civil process, he says, often settles conflicting claims of right, while the criminal process does not. If I am accused of the *crime* of poisoning my Uncle Julius, it is assumed at the outset that, if I did that, I violated his rights. The issue before the court would be the factual one of what I actually did. On the other hand, if you bring a civil action against me because my oak tree is shading your azaleas to death, the question whether this violates your rights will be precisely what is at issue.

Smith claims that the proper observance of this distinction helps to keep our legal system manageably simple. Criminal law defines classes of actions that always violate people's rights, dealing with such violations by means of rigidly general statutes. The law separates this kind of action from actions that raise issues of conflicting claims of right, issues that cannot be dealt with by means of rigid generalities.

From this Smith draws the interesting conclusion that if a body of criminal statutes is horrendously complicated, it probably deals with actions that should not have been criminalized in the first

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place. Such statutes may involve, for instance, actions that raise conflicts between claims of right to freedom of action and claims of right to protection from harm. This, of course, immediately casts doubt on a good deal of business regulation, which tends to be notorious for its labyrinthine complexity. (And every labyrinth has its Minotaur, after all.)

The only bothersome shortcoming I can detect in this book is the notable lack, on the part of any of the authors, of a lucid discussion of the general question of what regulation is. I can find only two proposed definitions of regulation in it, and both are deficient. Thomas R. Haggard defines regulation as "the positive, unconditional commands of the legislature (or its . . . agents) to private persons to do or not to do something within an economic context." This definition is too broad. A law that forbids me to rob banks does command me not to do something "within an economic context," but it is not an instance of what Haggard or anyone else means by "regulation."

Tibor R. Machan defines regulation as "the adjustment and direction of some human activity that is deemed quite legitimate (such as selling cars or manufacturing drugs), by threatening or actually using physical force (via the machinery of law enforcement)." This definition may be too broad or too narrow, but one cannot tell because it certainly is too vague.

What does it mean to "adjust" a legitimate activity? Perhaps Machan means that regulations take activities that are legitimate in themselves (such as manufacturing automobiles) and specify that they must not be done in certain *ways* (for example, such that the cars dump large amounts of sulphur dioxide into the atmosphere). But this would make the definition too broad, since virtually any criminal offense could be described as a way of doing something else, where this something else is a legitimate activity. If I poison Uncle Julius in order to inherit his stamp collection, I am pursuing a legitimate activity (collecting stamps) in a certain way (by murdering someone); but the law that specifies that I must not do it this way is not a regulation.

This might sound like mean-minded quibbling, but Machan is the one author in this book who argues that all regulation is wrong, so he—if anyone—should say clearly what he understands regulation to be. If he does not, we do not know exactly what his thesis amounts to.

Actually, I think that trying to say what regulation is would be good for everyone who thinks about regulation, because it would probably bring home to us what widely different phenomena are brought together under this one word. I can think of at least six different sorts of laws that are called regulations in the ordinary usage of that word. There are: (1) antitrust regulations, (2) regulations that are meant to penalize fraud and breach of contract (many Securities and Exchange Commission regulations may serve as examples here), (3) regulations that are meant to diminish negative externalities (such as pollution and resource depletion), (4) product safety regulations, (5) regulations that are meant to enhance safety in the workplace, and (6) regulations that are meant solely to favor one party over another (this would include rent controls, wage controls, and price controls in general).

Faced with so much variety, it is probably best to discuss the types of regulation separately, instead of trying to say something interesting about all of them at once. A few moments of reflection should be enough to convince one that arguments that might help to justify one sort of regulation are generally irrelevant to justifying at least one of the others. An important part of the rationale for regulations designed to diminish negative externalities, for instance, is the idea that it seems wrong that persons who are not voluntarily involved in producing a negative effect (such as pollution) should have that effect imposed upon them. This is obviously irrelevant to the justification of regulations such as rent controls. It is also fairly clear, once one thinks about it, that it does not help with justifying regulations that are meant to enhance safety in the workplace, either.

If someone were to sort out the types of regulation and explain how they relate to the arguments commonly given for and against them, it would be a valuable contribution toward the understanding of the ethics of regulation. Meanwhile, we should be glad that *Rights and Regulation* represents a long step toward the same goal.

Lester Hunt teaches philosophy at the University of Minnesota at Morris.

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Public Libraries, Public Good?

The Public Library in the 1980s: The Problems of Choice
By Lawrence J. White
Lexington, Mass.: Lexington Books
167 pp. $22.95

Reviewed by Philip E. Fixler, Jr.

On a scale of one to ten, which institution do you have the strongest feelings about? The IRS? The Post Office? Your state's department of motor vehicles? Or the public library? Unless you're a library dilettante, the public library is the last on your list. This is all the more reason to appreciate Lawrence J. White's analysis of this oft-overlooked public institution.

In *The Public Library in the 1980s: The Problem of Choice*, White has done a superb job of identifying the misallocation of resources by public libraries and pointing out the subsidization across economic classes (lower to higher!). In the process, he demolishes many of the historical myths surrounding public libraries (for example, that they are "the people's university"). Also to his credit,

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White, an economist, goes beyond purely economic analysis and dares to ask the fundamental question: Why *have* public libraries? Unfortunately, White's answer omits some important considerations. But let me first focus on many excellent points he makes.

White begins with a statement of the basic dilemmas facing public libraries. These result from the fact that public libraries are virtually free to the user and at the same time financed by taxpayers. As a consequence, public librarians lack the incentives and information to allocate their resources to reflect optimally what users really want. Nor do public librarians have any incentive to pursue what, in White's opinion, is the true mission of the library—greater emphasis on serving children and students.

Since public libraries are financed through taxes rather than through revenues generated by users, for the most part public library professionals, when they analyze efficiency and costs, have been focusing exclusively on "input" measurements (for example, how many books per population the library possesses) rather than on "output" measurements (for example, what books per population are actually checked out). Yet in this era of fiscal cutbacks, White argues that public library professionals must face reality and recognize that they cannot continue to provide "free" services to everyone.

One fascinating aspect of White's study is his analysis of users versus payers. He found that the predominant users of libraries are middle- and upper-middle-class recreational readers. The poor are getting the worst of the deal—they use libraries the least, while paying a disproportionate percentage of their income to support public libraries.

White recommends a reorientation of public libraries toward children and students, which would appear to "convey substantial external or spillover benefits to other members of society." He further recommends measures to encourage public librarians to become more concerned with output measurements and operating efficiencies. He admirably proposes that "the imposition of fees for adults and business services must be seen as a legitimate and desirable source of revenue for the public library." Finally, he recommends retention of some government subsidies financed through taxation, because libraries are in certain respects "public goods," according to White, since they help educate children and students.

It is this last recommendation that reveals the most important flaw of White's analysis. In reverting to "public goods" arguments to justify public libraries, White ignores recent criticisms of the concept. He simply assumes that without at least some tax funding, social benefits of libraries would disappear. Either private individuals and groups would have no incentive to establish and operate libraries for the public, or, if they did so, some people would receive a "free ride," benefiting from the library's services but paying nothing for them.

In relying on public-goods theory, White ignores the lessons of economists who have pointed out that it is impossible to truly measure any benefits to society as a whole because of the individual nature of economic values. The public-goods rationale also bypasses the significance of opportunities forgone by those who are forced through taxation to finance public libraries.

Even if some people happen to benefit (to some extent or another) from something they didn't want but were nonetheless forced to pay for, this is hardly a moral justification for compelling them to pay for it in the first place. If a thief later spends the money he robbed from you in your own store, is his theft thereby justified to begin with?

As Robert Nozick of Harvard University asks in regard to the "public goods" problem in *Anarchy, State, and Utopia*: Should an individual really have an obligation to finance such things without having made a prior agreement? Are we really prepared to accept the *full* implications of such a proposition? Are the benefits received by individuals proportional to their costs? (And how can we ever know this, since benefits are particular to individuals and cannot really be measured?) To apply Nozick's argument to the case at hand, are not the promoters of libraries really giving an unsolicited value to some people, then grabbing the money to pay for it?

M. D. O'Brien, in his 1906 article "Free Libraries," didn't mince words on the subject: "It is difficult to see any real difference between the man who boldly goes into his neighbor's house and carries off his neighbor's books, and the man who joins with a majority, and under the authority of the ballot-box, sends the tax collector around to carry off the books."

White's examination of the modern public library is unquestionably an authoritative economic analysis. It should be of use to students of public administration, librarians, and local government officials. It may also interest the general reader (especially in communities facing bond measures to finance libraries). Though White fails to address critics of the public-goods concept, he has raised a number of key concerns regarding our current public library system in this thought-provoking book.

Philip Fixler is the director of the Reason Foundation's Local Government Center. He teaches public administration and has worked in local government.

LIFE & LIBERTY

(Continued from p. 52)

no box office? Because people who might be expected to enjoy such movies wouldn't go to them. I think we can safely conclude that *conservatives don't generally go to movies.* They rant and rave against movies, but they don't deign to *see* movies.

Liberals and leftists regard the cinema as part of the living culture, as intrinsic to the expression of values. Repugnant though she usually is, in her smugness and meanness, Phyllis Schlafly is on target in defining the values of the moviemakers and suggesting that the movies they make aren't going to make *her* kind of American happy. On the other hand, the *undertone* of many ostensibly nonpolitical movies is decidedly to the right: *Indiana Jones and the Temple of Doom*, this summer's megahit, affirms Western values and sneers at the mystic Orient. The *Star Wars* trilogy is basically the western up in the sky. Examples abound, but conservatives don't regard the cinema as friendly or, and this is more important just now, as incipiently convivial, politically.

As conservatives stand at their barricades shrieking about the evils of Hollywood, liberals and leftists and libertarians are going to the movies and conveying to those who make movies their preferences, which help reinforce the preferences of the moviemakers themselves. If the cinema is hostile territory to the right wing, it is partly, at least, because the right wing doesn't attend the cinema and doesn't, thereby, influence what next year's movies will be.

Contributing Editor David Brudnoy hosts a radio talk show in New England and reviews movies daily on radio and weekly in the Tab *chain of newspapers.*

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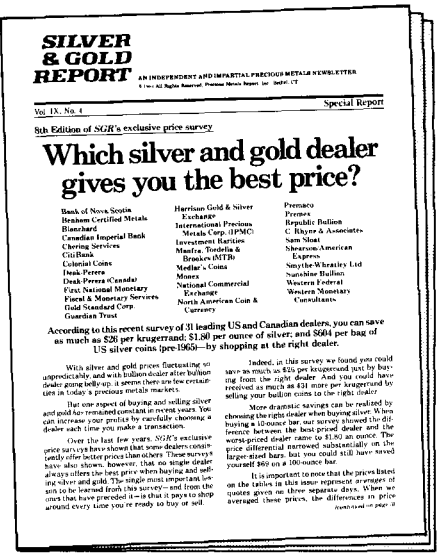

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(continued on page 8)

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Further & More

ROAD TO INSOLVENCY

User fees for city streets, based on electronic metering, is an idea whose time has come in Hong Kong (Trends, June 1983)—but apparently not in Hawaii. The state's Transportation Department studied the possibility of having electronic identification devices installed on cars and then billing drivers every month according to the distance they traveled in congested areas on Oahu. But when officials asked 400 Oahuans their opinion of the idea, an overwhelming 84 percent were opposed (not surprisingly, given that road use is now presented as a free good).

Mark Coleman, a reporter for the *Pacific Business News* in Honolulu, told REASON that the idea is "dead in the water." The mayor is opposed, and the local Chamber of Commerce wants to solve the island's traffic problems with a costly light-rail system.

In the state agency's survey, there was nearly as much public opposition to other possible ways to reduce traffic congestion on Oahu island. Some 75 percent were against toll roads, and 69 percent were against a system of purchasing permits to drive in a car-pool lane with fewer than four passengers. The analysts who conducted the study for the state suggested that public opposition to user fees might stem from notions that they would somehow be an added tax burden, involve an electronic invasion of privacy, and be unfair to travelers who must travel during peak traffic hours.

Meanwhile, Hong Kong's pilot program now includes 35,000 cars.

INSECURE FREEDOM

Among other things, the First Amendment to the US Constitution guarantees free speech and a free press. But as Michael McMenamin and William Gorenc, Jr., revealed in their January 1983 REASON investigation, "Subverting the First Amendment," the Securities and Exchange Commission doesn't want to hear about such freedoms. Though since that REASON article appeared, others within the press have become alarmed about the SEC's war on the First Amendment, the commission continues its subversive efforts (see last month's "Press to the Wall," page 66).

The latest instance of SEC disdain for press freedom is the commission's recent order that *Stock Market Magazine*, a 23-year-old financial news and analysis publication with a circulation of some 15,000, cease publishing until it registers with the commission—in effect, obtain a license to publish. The SEC order was upheld in July by a federal district court. A 1940 law authorizes the SEC to require investment advisors to register with the commission but specifically exempts the publishers of general and regular-circulation publications. *Stock Market*'s publisher is appealing the decision.

Prior to this ruling, as recounted by McMenamin and Gorenc in REASON, the SEC had only once tested in court the issue of whether a financial publication must register as an investment advisor. The SEC pursued the case for over 10 years, finally lost it in 1978, and did not appeal. In spite of this loss in court, the SEC continued its policy of licensing and regulating financial publications.

Even before the ominous *Stock Market* ruling came down, other SEC activities had caused increasing alarm among the press. Commenting on an earlier SEC cease-publication order, an editorial in *Editor & Publisher* (June 30) stated the situation in no uncertain terms: "It appears the Securities and Exchange Commission is doing what Congress has feared to do—in fact, what it is explicitly prohibited by the Constitution from doing—and that is issuing a license to publish." And if the SEC "can suppress one publication," the magazine warned, "other government agencies may feel they also have the right to do likewise."

AND MORE

• *Not left out.* Free-market economists have long known how the supply-and-demand dynamic of the marketplace can serve a variety of needs—even satisfying people most skeptical of free markets. In February, Trends reported on how the market has accommodated liberals and leftists with social-investment mutual funds. They're a device for investors who choose, for example, not to put their money in companies operating in South Africa, military contractors, and nonunion firms ("The Virtues of the Market"). Now the *Wall Street Journal* reports that of three major social-investment mutual funds, one—Pax World Fund—has performed better than the Standard & Poor's 500 stock index in both 1983 and the first half of 1984. Also, two new newsletters on "acceptable companies" are now being published, as well as *The Concerned Investors Guide* with data on companies' labor practices and product safety.

• *Capital news.* Surprises of surprises, there's some good news to report about the recent $50-billion tax-hike bill. In "Hard Times for Hard Assets" (Dec. 1983), Contributing Editor Joe Cobb detailed some wheeling and dealing last fall concerning a legislative proposal. Under that proposal, the capital-gains holding period—the time a capital asset must be owned in order to qualify for the lower, capital-gains tax rate—would be cut from one year to six months, but "hard assets" (things like gold and silver, artworks, etc.) would no longer be considered capital assets. Under the tax bill that passed in July, however, not only was the holding period cut to six months, but hard assets are still eligible for the capital-gains tax rate.

• *"Never mind"—this once.* The IRS has dropped its penalty against a taxpayer who typed "Signed involuntarily under penalty of statutory punishment" on her 1040 Form (Brickbats, Sept.). But the tax collectors are pursuing their case against 98.8 percent of the other 7,699 citizens charged with having filed "frivolous" returns.

• *What ads up?* The move toward prescription-drug advertising was recently reported in Trends ("Prescriptions for Healthier Markets," August). A recent article in the bastion of the consumer movement, *Consumer Reports*, focused mainly on the opposition to such ads but did concede that "a flat ban on *all* ads to consumers may not be legally possible—or even desirable." Consumerists, for example, have long battled for pharmacies' right to advertise price comparisons of prescription drugs—and ads stressing price comparisons are among those being most eagerly promoted by the more aggressive pharmaceutical firms.

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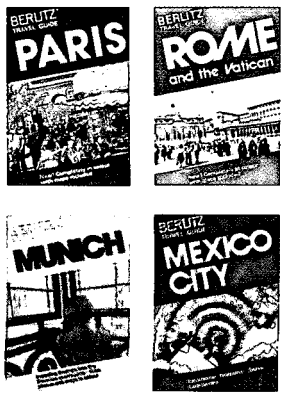

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Even we were a little surprised. All we did was build the best radar detector we knew how. We shipped our first ESCORT in 1978, and since then we've shipped over 600,000. Along the way the ESCORT has earned quite a reputation—among its owners, and also in several automotive magazines.

Credentials

Over the past five years, *Car and Driver* magazine has performed four radar detector comparison tests. Escort has been rated number one in each. Their most recent test concluded "**The Escort radar detector is clearly the leader in the field in value, customer service, and performance . . .**" We think that's quite an endorsement.

Our Responsibility

One of the reasons for our reputation is our attention to detail. If we don't feel we can do something very well, we simply won't do it. That's why we sell Escorts direct from the factory to you. Not only can we assure the quality of the ESCORT, but we can also make sure that the salesperson you speak to is knowledgeable. And if an ESCORT ever needs service, it will be done quickly. And it will be done right.

50 States Only

And that's the reason we don't presently sell ESCORTs outside of the United States. Even in the countries that use identical radar (Japan and Australia, to name two) we know that we couldn't provide the kind of customer service that ESCORT owners expect. So we pass up the additional sales rather than risk our reputation.

"Dear Sir..."

So we'll admit we were surprised when a letter from one of our customers included an advertisement from a Japanese automotive magazine. The ad pictured an ESCORT, and the price was 158,000 yen. Our customer was kind enough to convert that to U.S. dollars. Using that day's rate of exchange, an American-made ESCORT was worth $714.93 in Japan. Further translation revealed the phrase "**The real thing is here!**" and warned against imitations.

This ½ page ad was a total surprise.

Econ 101

Needless to say, we were flattered. We knew that ESCORT had an impressive reputation, but we never expected to see it "bootlegged" into other countries and sold at such a premium. But the laws of supply and demand are not so easy to ignore. When there is a strong need for a product, there is an equally strong incentive for an enterprising capitalist to fill that need. And apparently, that's just what happened.

The Moral

We still don't sell out of the country. And the price in this country is still $245. The price we've had for the last five years.

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